IN SENATE.

THURSDAY, *April* 13, 1876.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. ANTHONY. I present a memorial from the Congressional Printer, stating that his official bond is $80,000, upon which he is authorized by law to draw $53,000; that his monthly payments approach nearly double that amount; that he was in the habit for a considerable time, when the monthly payments were less than they are now, of borrowing the money on his own personal responsibility until he could obtain the pay-rolls, properly accounted, from the Treasury and draw additional upon his bond; that this was the practice of all of his predecessors; that, the pay-rolls increasing considerably, he has found it exceedingly inconvenient to borrow the money on his personal responsibility, and he has been in the habit of using for the purpose of paying the workmen in the Government Printing Office the amount of money received from the sales of waste paper, old material, documents, &c.; that he is advised that this is a violation of the law; and desiring to conform himself to the law, and it being impossible to carry on the business of the office under the existing law, he asks for such relief as Congress in its wisdom may see fit to grant; and, being an officer of this body, he has presented his memorial to the Senate. In conclusion he says:

> The undersigned would further suggest, most respectfully, that the law relating to the Government printing and binding be so amended as to provide for a disbursing officer, who shall give bonds to the Government, and who shall receive and disburse all moneys relating to this office, thus relieving the Congressional Printer of all financial duties and responsibilities.

I move that the memorial be printed, and referred to the Committee on Printing.

The motion was agreed to.

Mr. BOGY presented a memorial of the Cotton Exchange of Saint Louis, Missouri, in favor of the passage of a law by Congress recognizing the Signal Service as a Department of the Government, and placing it on a sound and lasting basis; which was referred to the Committee on Commerce.

Mr. WALLACE present a memorial of the Book-Trade Association of Philadelphia, remonstrating againt the proposed rates of postage on third-class mail matter, and also against any change in the present tariff laws; which was referred to the Committee on Finance.

He also presented a petition of citizens of Kittanning, Pennsylvania, and two petitions of citizens of Pittsburgh, Pennsylvania, praying for the passage of a law to regulate commerce and prohibit unjust discriminations by common carriers; which were referred to the Committee on Railroads.

He also presented a petition of citizens and iron-workers of Montour County, Pennsylvania, praying for aid to the Texas Pacific Railway; which was referred to the Committee on Railroads.

Mr. BOUTWELL presented a memorial of the Middlesex Mechanics' Association of Lowell, Massachusetts, in favor of the metric system of weights and measures; which was referred to the Committee on Finance.

Mr. SHERMAN presented the petition of Withenbury and Doyle, praying compensation for cotton alleged to have been taken for the use of the Army and destroyed by the enemy while in use as bulwarks to an army transport on the Mississippi River; which was referred to the Committee on Claims.

Mr. CONKLING presented a petition of citizens of Bath, New York, praying the repeal of the bankrupt act; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Onondaga County, New York, praying that there may be no change made in the present tariff laws; which was referred to the Committee on Finance.

He also presented a memorial of citizens of Saint Lawrence County, New York, remonstrating against the passage of any law or laws granting American register to foreign-built vessels; which was referred to the Committee on Commerce.

The PRESIDENT *pro tempore* presented the memorial of Renauld, François & Co., and 25 other wine merchants of New York, remonstrating against an increase of the rate of duty on champagne imported into the United States; which was referred to the Committee on Finance.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. G. M. ADAMS, its Clerk, announced that the House had passed the following bills; in which the concurrence of the Senate was requested:

A bill (H. R. No. 351) to create an additional land office at Colfax, in Whitman County, Washington Territory;

A bill (H. R. No. 967) authorizing the survey of certain townships in Michigan, and making an appropriation therefor;

A bill (H. R. No. 1336) to establish a new land district in the Territory of Wyoming;

A bill H. R. No. 1959) for the relief of certain settlers on the Kansas Indian reservation in Kansas;

A bill (H. R. No. 2260) providing for the sale of saline lands;

A bill (H. R. No. 2545) authorizing the Secretary of War to relinquish and turn over to the Interior Department a certain military reservation in the Territory of Arizona;

A bill (H. R. No. 3128) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1876, and for prior years, and for other purposes; and

A bill (H. R. No. 3129) amending an act granting a pension to Ann Hensley, approved March 3, 1873.

REPORTS OF COMMITTEES.

Mr. KERNAN, from the Committee on Patents, to whom was referred the bill (H. R. No. 1440) to enable Charles H. Fondé to make application to the Commissioner of Patents for extension of letters-patent for improvement in dredging-machines, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. HAMILTON, from the Committee on Pensions, to whom was referred the bill (H. R. No. 744) to increase the pension of Mary W. Jones, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Martha Irwin, widow of John Irwin, alias Samuel West, late of the Navy, praying to be allowed a pension, submitted a report thereon accompanied by a bill (S. No. 735) granting a pension to Martha Irwin, widow of John Irwin.

The bill was read and passed to the second reading, and the report was ordered to be printed.

Mr. HAMILTON. On the 16th of March the bill (S. No. 607) for the relief of Eliza Howard Powers was referred to the Committee on Pensions. The committee find that Mrs. Powers was employed in some way in the sanitary department of the Army and that the case is not covered by the pension laws. I therefore move that the committee be discharged from its further consideration, and that the bill and papers be referred to the Committee on Military Affairs.

The motion was agreed to.

Mr. ALLISON, from the Committee on Pensions, to whom was referred the petition of John Dwyer, late a private in Company C, Fourth United States Cavalry, praying to be allowed a pension, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 1598) granting a pension to William R. Duncan, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WRIGHT, from the Committee on the Judiciary, to whom was referred the bill (S. No. 151) to define certain crimes and the punishment thereof, reported it with an amendment.

Mr. INGALLS, from the Committee on Pensions, to whom was referred the petition of Mary M. J. Frank, widow of Paul Frank, late colonel Fifty-second New York Volunteers, praying to be allowed a pension, submitted a report, accompanied by a bill (S. No. 736) granting a pension to Mary M. J. Frank.

The bill was read and passed to the second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Harrison H. Dodds, late private in Company C, Sixteenth Ohio Infantry, praying that he be granted a pension, submitted a report, accompanied by a bill (S. No. 737) granting a pension to Harrison H. Dodds.

The bill was read and passed to the second reading, and the report was ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1989) granting a pension to Robert Cavanaugh, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 656) granting a pension to W. R. Browne, submitted a report thereon; which was ordered to be printed, and the committee was discharged from the further consideration of the bill.

He also, from the same committee, to whom was referred the petition of Sarah E. Bowden, widow of Lorenzo D. Bowden, late a private in Company K, Sixteenth Regiment Maine Volunteers, praying to be allowed a pension, submitted a report thereon; which was ordered to be printed, and the committee was discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (S. No. 458) for the relief of Jessie McCoy, submitted a report thereon; which was ordered to be printed, and the committee was discharged from the further consideration of the bill.

Mr. BOOTH, from the same committee, to whom was referred the bill (H. R. No. 1602) granting a pension to Margaret E. Cogburn, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 2303) granting a pension to Mary S. Greenlee, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Nathan Braustetter, guardian of Louisa White, praying that she may be granted a pension on account of the services of her brother, Jesse J. White, late of Company F, One hundred and twenty-fifth Illinois Volunteer Infantry, submitted an adverse report thereon; which was agreed to, and ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 2290) granting a pension to Frederick Hoeh, submitted an

adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. DORSEY. If there is no further morning business, I would like to call up Senate bill No. 634.

Mr. SHERMAN. I wish to introduce a bill.

Mr. WITHERS. I have a report to make.

The PRESIDENT *pro tempore*. The morning business is not yet concluded.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the petition of David H. Sims, praying for a pension, submitted an adverse report thereon; which was agreed to, and ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Commerce, to whom was referred the bill (S. No. 176) to authorize the Northwestern Improvement Company, a corporation organized under the laws of the State of Wisconsin, to enter upon the Menomonee Indian reservation, and improve the Oconto River, its branches, and tributaries, reported it without amendment and submitted a report thereon, which was ordered to be printed.

Mr. INGALLS. If there be no further morning business, I move that the Senate proceed with the Calendar.

The PRESIDENT *pro tempore*. Several Senators have risen with morning business.

BILLS INTRODUCED.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 738) for the relief of Withenburg & Doyle, of Cincinnati, Ohio; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 739) to amend section 5457 of the Revised Statutes of the United States relating to counterfeiting coin; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CAMERON, of Wisconsin, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 740) to establish a post-route in Wisconsin; which was read twice by its title, and, together with the accompanying petition, referred to the Committee on Post-Offices and Post-Roads.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 741) for the relief of such members of the Menomonee tribe of Indians as may desire to become citizens of the United States; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MITCHELL submitted amendments intended to be proposed by him to the bill (H. R. No. 3022) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. MERRIMON submitted an amendment intended to be proposed by him to the bill (H. R. No. 3128) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1876, and for prior years, and for other purposes; which was referred to the Committee on Appropriations.

TRANSFER OF UNITED STATES PRISONERS.

Mr. WRIGHT. If there is no further morning business, I move that the Senate proceed to the consideration of the bill (S. No. 435) to amend section 5546 of the Revised Statutes of the United States, providing for imprisonment and transfer of United States prisoners.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It amends section 5546 of the Revised Statutes, so as to read:

SEC. 5546. All persons who have been, or who may hereafter be, convicted of crime by any court of the United States whose punishment is imprisonment in a District or Territory where, at the time of conviction or at any time during the term of imprisonment, there may be no penitentiary or jail suitable for the confinement of convicts or available therefor, shall be confined during the term for which they have been or may be sentenced, or during the residue of said term, in some suitable jail or penitentiary in a convenient State or Territory, to be designated by the Attorney-General, and shall be transported and delivered to the warden or keeper of such jail or penitentiary by the marshal of the District or Territory where the conviction has occurred; and if the conviction be had in the District of Columbia, in such case the transportation and delivery shall be by the warden of the jail of that District; the reasonable actual expense of transportation, necessary subsistence, and hire and transportation of guards and the marshal, or the warden of the jail in the District of Columbia, only, to be paid by the Attorney-General, out of the judiciary fund. But if, in the opinion of the Attorney-General, the expense of transportation from any State, Territory, or the District of Columbia, in which there is no penitentiary, will exceed the cost of maintaining them in jail in the State, Territory, or the District of Columbia during the period of their sentence, then it shall be lawful so to confine them therein for the period designated in their respective sentences.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment of the committee was in line 19, after "District of Columbia," to strike out the words "in such case;" so as to read:

And if the conviction be had in the District of Columbia, the transportation and delivery shall be by the warden of the jail of that District.

The amendment was agreed to.

The next amendment of the committee was to add at the end of the bill:

And such change may be ordered in any case when, in the opinion of the Attorney-General, it is necessary for the preservation of the health of the prisoner, or when, in his opinion, the place of confinement is not sufficient to secure the custody of the prisoner, or because of cruel or improper treatment: *Provided, however*, That no change shall be made in the case of any prisoner on the ground of the unhealthiness of the prison or because of his treatment after his conviction and during his term of imprisonment, unless such change shall be applied for by such prisoner, or some one in his behalf.

Mr. COCKRELL. I desire to ask the Senator from Iowa, who has charge of this bill, what is the necessity for the small change or variation that is made in the law by this amendatory bill?

Mr. WRIGHT. I will explain to my friend, the Senator from Missouri, that, as the law stands now, the power is given to the Attorney-General to make this change or designation as to where the prisoner shall be confined at the time of sentence. There is no power given him to make a change after sentence and during confinement. It has been found in many instances that the penitentiaries are overcrowded, and that this has occurred without any knowledge on the part of the Attorney-General at the time of the sentence. It was deemed advisable, and he has so recommended, that the power be given to make these changes after sentence, because in some instances it has been found that the prisoners have been abused; in others that the penitentiaries were insufficient to restrain them; in others that the penitentiaries were unhealthy. For instance, in the State of Arkansas, as I am advised, the penitentiary is quite overcrowded, and there is no power to order the removal of prisoners after sentence and during their confinement. The object of the bill is to give the power to the Attorney-General to make such change after the sentence as well as at the time of the sentence.

Mr. KERNAN. I call the attention of the Senator from Iowa to the first line of the amendment:

And such change may be ordered in any case.

Does that mean in any case where a man has been convicted by a court?

Mr. WRIGHT. Of course it can only refer to the cases that are contemplated in the preceding part of the bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THE CALENDAR.

The PRESIDENT *pro tempore*. If there is no further morning business, the morning hour has expired, and the Chair will call up the unfinished business, which is the bill (S. No. 680) authorizing the repavement of Pennsylvania avenue.

Mr. INGALLS. The Senator having that bill in charge is absent from the Chamber, and I suggest that the remainder of the morning hour until one o'clock be devoted to the Calendar.

The PRESIDENT *pro tempore*. The Senator from Kansas asks that the Calendar be proceeded with.

Mr. WRIGHT. I understood the Senator from Kansas to so move some time since.

The PRESIDENT *pro tempore*. Is there objection to laying this bill aside temporarily, for the purpose of considering cases on the Calendar?

Mr. INGALLS. Until one o'clock.

The PRESIDENT *pro tempore*. Until one o'clock. It will be so understood. The first bill on the Calendar at the point where its consideration was last left off will be resumed.

PAY DEPARTMENT OF THE ARMY.

The CHIEF CLERK. The first bill on the Calender at the point indicated is the bill (S. No. 126) to restore appointments and promotions to the Pay Department of the Army.

Mr. ALLISON. This seems to be rather an important bill. I see the Senator from Rhode Island who has charge of the bill [Mr. BURNSIDE] is absent.

The PRESIDENT *pro tempore*. Does the Senator object to its consideration?

Mr. ALLISON. I do.

The PRESIDENT *pro tempore*. The bill will be passed over.

NAME OF A STEAMBOAT.

The next bill on the Calendar was the bill (H. R. No. 726) to change the name of the steamboat Charles W. Mead; which was considered as in Committee of the Whole. It confers authority on the owner of the steamboat Charles W. Mead, of Allegheny City, Pennsylvania, to change the name of that vessel to that of General Meade.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FRANCISCO V. DE COSTER.

The next bill on the Calendar was the bill (S. No. 291) for the relief of Francisco V. De Coster.

Mr. INGALLS. There is an adverse report in that case.

The PRESIDENT *pro tempore*. This bill was reported adversely by the Senator from Rhode Island, [Mr. BURNSIDE.]

Mr. ALLISON. I object to its consideration.

The PRESIDENT *pro tempore*. The bill will be passed over.

PONTON-BRIDGE AT LA CROSSE.

The next bill on the Calendar was the bill (S. No. 336) to authorize the construction of a ponton-bridge across the Mississippi River from some feasible point in La Crosse County, in the State of Wisconsin, to some feasible point in Houston County, in the State of Minnesota.

Mr. CAMERON, of Wisconsin. The Senator from Missouri [Mr. BOGY] desires to consider the matter further. I therefore consent that the bill may go over.

The PRESIDENT *pro tempore*. The bill will be passed over.

SETTLERS IN CALIFORNIA.

The next bill on the Calendar was the bill (S. No. 445) for the relief of settlers on public lands in the State of California.

Mr. McDONALD. The understanding in the committee was that that bill was to stand over for the present, as some parties desire to be further heard in regard to it.

The PRESIDENT *pro tempore*. The bill will be passed over.

PUBLIC ALLEY IN WASHINGTON.

The next bill on the Calendar was the bill (S. No. 293) authorizing the commissioners of the District of Columbia to cancel and annul the condemnation of ground in square 762, in the city of Washington, for a public alley, and for other purposes; which was considered as in Committee of the Whole.

The first section authorizes the commissioners of the District of Columbia to cancel and annul the condemnation of ground in square 762, in the city of Washington, for the purpose of locating a public alley in that square, should they deem the abandonment of the projected alley compatible with the interests of the public; but the abandonment is only to be made upon the petition of a majority of the residents and owners of the property in that square.

The second section directs that the commissioners shall take steps to recover into the treasury of the District of Columbia any damages paid to any person or persons occupying or owning property in the square named where the property of said person or persons has been in no manner interfered with or damaged; and that, upon such recovery, the commissioners shall refund any benefits assessed against any person or persons owning or occupying property in the square, provided such benefits shall have been paid.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ENTRY OF PACKAGES.

Mr. MORRILL, of Vermont. There is on the Calendar a bill from the House, No. 2951, that ought to be passed at once if it is passed at all. There has been a slight amendment made to it by the Committee on Finance. I ask unanimous consent to take up that bill now out of its order.

There being no objection, the bill (H. R. No. 2951) to provide for the separate entry of express packages contained in one importation was considered as in Committee of the Whole. It provides that a separate entry may be made of one or more express packages contained in an importation of packed packages consigned to one importer or consignee, and concerning which packed packages no invoice or statement of contents or values has been received. Every such entry is to contain a declaration of the whole number of parcels contained in the original packed package, and to embrace all the goods, wares, and merchandise imported in one vessel at one time for one and the same actual owner or ultimate consignee.

The importer, consignee, or agent's oath prescribed by section 2841 of Revised Statutes is modified for the purposes of the act so as to require the importer, consignee, or agent to declare therein that the entry contains an account of all the goods ——— imported in the ———, whereof ——— is master, from ——— for account of ———, which oath, so modified, is in each case to be taken on the entry of one or more packages contained in an original package. But nothing herein contained is to be construed to relieve the importer, consignee, or agent from producing the oath of the owner or ultimate consignee in every case now required by law; or to provide that an importation may consist of less than the whole number of parcels contained in any packed package or packed packages consigned in one vessel at one time to one importer, consignee, or agent.

Mr. MORRILL, of Vermont. This bill is recommended by the Secretary of the Treasury and the necessity for it arises from the fact that there are a large number of packages that are sent here to custom-house brokers and brought over by express companies. The object is to confine the packages, where they come for one person, to one invoice and one entry; and if there is more than one person who is interested in the package, then to allow a separate invoice for the package. For instance, an express company may have a trunk containing fifty or one hundred packages. Under the existing law it is construed that they shall be compelled to enter all those packages in one invoice, and there is great inconvenience about it, for some of them may be for remote parts of the country, some of them perhaps for Saint Louis; some of them perhaps for Washington; some of them for New York; and some of them for Chicago; and they would have therefore to wait until they could get the invoice and the oath of the party to whom they belonged before they could enter any portion of those that are in that single package.

Under existing circumstances, when so many packages are coming here constantly, ordered from this side of the water or sent from abroad to parties here by relatives, as, for instance, clothing of various descriptions, sometimes nothing but old clothing, and frequently sent as presents, it is utterly impossible for those having the shipment in charge to make out an invoice until they hear from the party who is the actual owner. It is a kind of business that is largely transacted. It is also transacted through the mails. This appears to be indispensable to the prompt transaction of the business.

I have any quantity of documents in relation to this matter if the Senate desire to hear further on the subject. I have a letter from the Secretary of the Treasury, and, if any Senator desires to have it read, I will have it read. If not, I think we may as well act on the bill with this explanation.

Mr. LOGAN. Is there an amendment reported by the committee?

The PRESIDENT *pro tempore*. There is an amendment, which will be read.

The amendment reported by the Committee on Finance was in line 3, to strike out the word "express;" so as to read:

That a separate entry may be made of one or more packages contained in an importation of packed packages consigned to one importer or consignee, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

It was ordered that the amendment be engrossed and the bill read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "A bill to provide for the separate entry of packages contained in one importation."

SMITHSONIAN REPORT.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Smithsonian Institution, submitting the annual report of the operations, expenditures, and condition of the Institution for the year 1875; which, on motion of Mr. HAMLIN, was ordered to be printed.

Mr. HAMLIN submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That ——— additional copies of the annual report of the Smithsonian Institution for 1875 be printed.

HOUSE BILL REFERRED.

On motion of Mr. MORRILL, of Maine, the bill (H. R. No. 3128) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1876, and for prior years, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

LEGAL TENDER OF SILVER COIN.

The PRESIDENT *pro tempore*. Bills on the Calendar will be resumed in their order. The next is the bill (S. No. 263) to amend the laws relating to legal tender of silver coin.

Mr. DORSEY. Let that go over.

Mr. SHERMAN. If that bill cannot be passed without objection, I ask that it be recommitted to the Committee on Finance. I submit a motion to recommit.

The motion was agreed to.

SETTLERS IN CALIFORNIA.

Mr. SARGENT. I see that the bill (S. No. 445) for the relief of settlers on public lands in the State of California has been passed over. Was there objection to the present consideration of the bill?

Mr. COCKRELL. The Senator from Indiana [Mr. McDONALD] objected.

Mr. McDONALD. It was the understanding in the committee that the bill should not be acted upon at this time.

Mr. SARGENT. The Senator from Indiana has made a very interesting and able report in favor of the bill, which I have read with very much pleasure, and being convinced thereby I should like very much to have an opportunity to give effect to my conviction by a vote in favor of the bill.

Mr. McDONALD. I expect to sustain that report by my vote; but there are other parties who claim that they have not been sufficiently heard on the question, and the committee were inclined to give them a little time to be heard.

Mr. SARGENT. As this bill is one of considerable importance to a very large number of persons embraced in it, I trust the time will be as short as is consistent with justice.

Mr. McDONALD. It will be.

RECORDING OF DEEDS, ETC.

Mr. MERRIMON. If there be no objection, I ask to call up the bill (H. R. No. 1922) providing for the recording of deeds, mortgages, and other conveyances affecting real estate in the District of Columbia.

By unanimous consent the bill was considered as in Committee of the Whole. It repeals sections 446 and 447 of the Revised Statutes relating to the District of Columbia, passed at the first session of the Forty-third Congress, and enacts in lieu thereof the following:

All deeds, deeds of trust, mortgages, conveyances, covenants, agreements, or any instrument of writing which by law is entitled to be recorded in the office of the recorder of deeds, shall take effect and be valid, as to creditors, and as to subsequent

purchasers for valuable consideration without notice, from the time when such deed, deed of trust, mortgage, conveyance, covenant, agreement, or instrument in writing shall have been acknowledged, proved, or certified, as the case may be, and delivered to the recorder of deeds for record, and from that time only.

The bill was reported by the Committee on the District of Columbia with an amendment, which was to add to the bill:

And the recorder of deeds shall note on each deed or other instrument of writing required by law to be recorded the time of delivery of the same to him to be recorded.

SEC. 2. That this act shall not be so construed as to affect any deed or other instrument of writing heretofore recorded.

Mr. WRIGHT. This bill is not on the Calendar, I believe; it has been reported this week.

The PRESIDENT *pro tempore*. It has been reported since the Calendar was printed.

Mr. WRIGHT. I ask the Senator from North Carolina to explain the changes which are proposed by this bill in the existing law.

Mr. MERRIMON. As the law now stands, any deed may be probated within six months after its execution. It will be seen at once that in a community like this great frauds might be perpetrated. The object of this bill is to cure that trouble, to provide that a deed shall take effect and be valid as against creditors and subsequent purchasers without notice from the day that it shall be registered.

Mr. WRIGHT. Is the existing law that if it be recorded at any time within six months, it takes effect from its date?

Mr. MERRIMON. Yes, sir; that is the state of the law as to all deeds except deeds of trust and mortgages.

Mr. WRIGHT. If they are recorded within six months?

Mr. MERRIMON. I will state again that as the law now stands, any ordinary deed of bargain and sale, or any paper writing required to be recorded touching the conveyance of real property, may be probated and registered at any time within six months after its execution. It will be seen that a wide door might be opened to fraud.

Mr. WRIGHT. I understand that; but what I want to get at is this: as the law stands now, if it is recorded within six months, does it become notice from its date?

Mr. MERRIMON. Yes.

Mr. WRIGHT. The object of this bill is that it shall only become notice from the day of its being filed for record?

Mr. MERRIMON. Yes, sir.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

It was ordered that the amendment be engrossed and the bill read a third time.

The bill was read the third time, and passed.

PONTON-BRIDGE AT LA CROSSE.

Mr. CAMERON, of Wisconsin. I ask now that Senate bill No. 336 be taken up.

There being no objection, the bill (S. No. 336) to authorize the construction of a ponton-bridge across the Mississippi River from some feasible point in La Crosse County, in the State of Wisconsin, to some feasible point in Houston County, in the State of Minnesota, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment.

Mr. SARGENT. I should like to hear an explanation of the bill. I understand that to a large extent it is local, and I do not desire to make any unnecessary objections, but I should like to know whether there is much commerce by this point; whether a ponton-bridge will not obstruct the passage of vessels, and whether it would not be thereby a hinderance to navigation.

Mr. CAMERON, of Wisconsin. The bill was referred to the Committee on Commerce, and by the Committee on Commerce it was referred to the War Department for its opinion and advice, and there is a communication from the Secretary of War on file with the bill, stating that in the opinion of that Department it will not be any obstruction to commerce. That Department can see no objection to the passage of the bill. The Senator from Missouri, [Mr. BOGY,] when the bill was called up some time ago, made some objection to the consideration of the bill at that time. I have since submitted to that Senator a letter from Captain P. S. Davisson, who is the general superintendent of the Keokuk Northern Line Packet Company. This packet company own a line of boats running from Saint Paul to New Orleans, but more especially running and doing business between Saint Paul and Saint Louis. Captain Davisson, who has had long experience as a river man, says that a bridge constructed as this bridge is proposed to be constructed will be no obstruction to the navigation of the river.

I also submitted to the Senator from Missouri a communication from Captain McDonald, who is one of the owners of the most extensive tow-boat company on the Upper Mississippi, who says that in his opinion the bridge, if constructed as it is proposed to be constructed by this bill, will not be an obstruction to navigation. It leaves a clear, open channel of four hundred feet; and it is to be constructed, as the Senator from California will see, under plans approved by the Secretary of War.

Mr. HOWE. I have not seen the letters to which my colleague refers, and I ask him, as they are very important testimony, if there is nothing in them which may not appear in print, to have them read.

Mr. CAMERON, of Wisconsin. Very well. I ask the Secretary to read each of these letters which I send to the desk.

The Chief Clerk read as follows:

LA CROSSE, WISCONSIN, *April* 7, 1876.

GENTLEMEN: Hearing that there is some objection made by certain United States Senators to the erection of a ponton-bridge between La Crosse County, Wisconsin, and Houston County, Minnesota, I take this method of giving the knowledge I possess in relation thereto. It would perhaps be proper to state first that I am a practical pilot, and that I am a member of a firm having a greater number of boats used exclusively in the towing of rafts than has any other firm or individual, and as a necessary consequence have a greater interest than any one has in keeping the Mississippi River as free as possible from artificial obstruction. But I regard a ponton-bridge similar to that now in use at Prairie du Chien as no obstruction or hinderance to the safe and speedy navigation of this river; providing, however, that the ponton or boat shall be at least four hundred feet in length, and crossing the main channel at a right angle to the stream, and that the abutments shall be protected by suitable shear-booms to enable any and all craft to pass safely through from above. All the pilots and parties interested in the navigation of the Mississippi River, so far as I have any knowledge, entertain a like opinion.

I am, gentlemen, very respectfully, yours,

D. A. McDONALD.

To the SENATORS AND REPRESENTATIVES OF WISCONSIN
in United States Congress.

I hereby certify that I am the general superintendent of the Keokuk Northern Line Packet Company, which company is engaged in the transportation of freight and passengers, by steamboat, on the Mississippi River, between Saint Paul and New Orleans. That I have been engaged in various positions as a practical navigator of western rivers for the last twenty years. That I am of opinion that ponton-bridges, if built so as to leave a clear channel of four hundred feet, with guide booms, are not a serious obstruction to the navigation of said rivers.

P. S. DAVISSON,
General Superintendent.

Mr. CONKLING. I wish to suggest to the Senator from Wisconsin, in no hostility to the bill at all, the propriety of adding a proviso which has become a somewhat favorite one here, reserving to Congress the right at any time to amend or repeal this act. I think the Senator will have no objection to that.

Mr. CAMERON, of Wisconsin. I have no objection to such an amendment.

Mr. CONKLING. Therefore I move to insert the words:

And provided further, That the right is hereby reserved to repeal or amend this act.

The honorable Senator from California [Mr. SARGENT] asks me if I do not think the words should be added "that the bridge shall then be removed." In answer I say that this being a boundary river between States, manifestly it does not fall within the police power of any single State to authorize this bridge, and if the time shall come when it is no longer authorized by Congress, it will be a nuisance and may be prostrated by the order of a court. Does the Senator doubt that? It seems to me it would stand entirely without permission. What I say would not be true, as I understand the law, touching a river wholly within the domain of a State, because I think until Congress shall act in derogation of that right, among the police powers of the State is the power to regulate bridges, ferries, turnpikes, and other things. But this, I repeat, is a boundary river between States and therefore it must fall, as the Supreme Court said in the Wheeling bridge case it ought to fall, within the domain and power of Congress, and once withdraw that power, the bridge would be an intruder, and it must fall, if judicial proceedings were leveled against it. So that if we reserve the right to take away the authority by which it shall be constructed, it seems to me that we cover the ground.

Mr. SARGENT. I ask the Senator if that is not qualified by the fact that the bridge is authorized to be constructed? the words "and maintain" are not in the act.

Mr. CONKLING. If the Senator from California has doubt about this, certainly there can be no objection to enlarging the amendment as he proposes. I submit to him, however, that that would not be the effect of the amendment. The Mississippi is a navigable stream and it is a public highway. It is a river within the domain and jurisdiction of the United States. No man has a right to span it with a bridge, merely because he is a riparian owner, or for any reason which inheres in him. Congress under its power may license and permit him to erect a construction spanning this river. His structure is lawful because of that authority. When the authority is withdrawn, it remains an impediment, an obstruction, a nuisance, an erection in derogation of right. It may be said, however, that if this act should be repealed or modified, the question would be what claim those who have invested money in the bridge would have upon Congress if they were compelled to prostrate it. Although I do not think there would be such a claim, yet I suggest to the Senator from California that that may be an additional reason for his proposing an additional amendment such as he suggests which I take it would be that the bridge should be removed without expense to the Government if its authority should be withdrawn. I presume the Senator from Wisconsin would make no objection to that modification of the amendment.

Mr. SARGENT. I move that amendment.

The PRESIDENT *pro tempore*. The amendment of the Senator from New York will first be read.

The Chief Clerk read the amendment of Mr. CONKLING, which was to insert at the end of the bill:

And provided further, That the right is hereby reserved to Congress to alter, amend, or repeal this act.

Mr. CONKLING. "And in case this act be repealed the bridge shall be removed without expense to the United States, or if it be amended requiring a change, such change shall be made without expense to the United States." I believe that will accomplish the purpose of the Senator from California.

Mr. WRIGHT. Allow me to suggest to the Senator from New York whether it is not true that the necessity for all of the amendment proposed, except the first part of it, is obviated by the acts that are referred to in this bill. I think the acts providing for the construction of the bridges at Clinton and the other places referred to in this bill have these provisions. If it be so, it would be unnecessary to put these provisions in here.

Mr. CAMERON, of Wisconsin. I have no objection to their going in.

Mr. WRIGHT. Then I shall not resist their insertion.

Mr. CONKLING. One of the acts to which the Senator from Iowa refers is general in its terms applying to a range of this river from a certain point to a certain point marked; another act is specific; and I take it neither of those acts would be applicable to this case, this being a specific license to erect a bridge on a certain site, which is not within the range of one of these acts, and, I think, not within the range of the other.

Mr. WRIGHT. My impression is that those acts provide that in the case of repairs to the bridge they shall be made at the expense of the persons erecting the bridge; and, if so, this act referring to those acts perhaps would make it unnecessary to put in such a clause here.

Mr. CONKLING. That is true touching bridges between the Big Sandy and another point, and touching one or two specific cases; but as I remember those acts, they would not cover the case of this bridge far above the point to which they apply.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The amendment will be read.

The CHIEF CLERK. The amendment, as modified, reads:

And provided further, That the right is hereby reserved to Congress to alter, amend, or repeal this act; and in case of the repeal of this act the bridge shall be removed without expense to the United States; and if this act be amended any changes or alterations required in the bridge shall be without cost to the United States.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Public Lands:

A bill (H. R. No. 351) to create an additional land office at Colfax, in Whitman County, Washington Territory;

A bill (H. R. No. 967) authorizing the survey of certain townships in Michigan, and making an appropriation therefor;

A bill (H. R. No. 1336) to establish a new land district in the Territory of Wyoming; and

A bill (H. R. No. 2260) providing for the sale of saline lands.

The bill (H. R. No. 1959) for the relief of certain settlers on the Kansas Indian reservation in Kansas was read twice by its title, and referred to the Committee on Indian Affairs.

The bill (H. R. No. 3129) amending an act granting a pension to Ann Hensley, approved March 3, 1873, was read twice by its title, and referred to the Committee on Pensions.

The bill (H. R. No. 2545) authorizing the Secretary of War to relinquish and turn over to the Interior Department a certain military reservation in the Territory of Arizona was read twice by its title, and referred to the Committee on Military Affairs.

THE LINCOLN STATUE.

The PRESIDING OFFICER. The morning hour having expired, the unfinished business is before the Senate, which is the bill (S. No. 680) authorizing the repavement of Pennsylvania avenue.

Mr. INGALLS. Before the Senate proceeds to the consideration of that bill I desire to make a report. On the 3d day of the present month an invitation was extended by the chairman of the committee of arrangements having in charge the inauguration ceremonies attending the unveiling of the statue to Abraham Lincoln, in Lincoln Park, in this city, on the 14th instant, to the Senate to attend on that occasion, which invitation, I believe, on the motion of the Senator from Ohio, [Mr. SHERMAN,] was accepted by the Senate. The memorial was referred to the Committee on the District of Columbia and by them committed to a subcommittee, consisting of the Senator from Connecticut [Mr. ENGLISH] and myself, with instructions to report to the Senate what course we thought advisable to be followed.

We have had an interview with the chairman of the committee having these ceremonies in charge, and are informed that the statue is now in place in the park and that the exercises attending its inauguration and unveiling will commence to-morrow at one o'clock. It is said to be a work of art that is worthy of the subject, procured in Italy at an expense of $17,000, from the contributions of the colored people of America. Seats have been prepared in the park for the reception and accommodation of the Senate. Whether it will be the pleasure of the Senate to attend collectively in a body, or whether they will desire to attend individually as separate members thereof, I have no means of ascertaining. I simply desire to submit the fact to the Senate, and I offer the following resolution and ask its adoption:

Resolved, That the Sergeant-at-Arms be directed to make suitable arrangements for the attendance of the Senate at the inauguration ceremonies of the Lincoln statue, in Lincoln Park, in the city of Washington, at one o'clock on the 14th instant.

Before the resolution is considered, I suggest that it is worthy the attention of the Senate to determine whether they will attend these exercises collectively in a body or whether the members will attend as suits their own convenience; and I should like some expression of opinion in order that I may make to the chairman of the committee having these exercises in charge such explanation as will be necessary to enable him to complete the arrangements. I would say in addition that it is my purpose, when this action is had, to supplement my motion by a motion that when the Senate adjourns to-day it be to meet on Monday next.

The PRESIDING OFFICER. The question is on the resolution reported by the Senator from Kansas.

The resolution was agreed to.

ADJOURNMENT TO MONDAY.

Mr. INGALLS. I move that when the Senate adjourns to-day it be to meet on Monday next.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. G. M. ADAMS its Clerk, announced that the House had passed a bill (H. R. No. 2473) to authorize claimants upon even-numbered sections of land within the twenty-mile limits of the Northern Pacific Railroad to make proof and payment for their claims at the ordinary minimum rate of $1.25 per acre.

The message also returned, in compliance with the request of the Senate, the bill (H. R. No. 700) to incorporate the Mutual Protection Fire-Insurance Company of the District of Columbia.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

An act (H. R. No. 2450) to provide for a deficiency in the Printing and Engraving Bureau of the Treasury Department and for the issue of silver coin of the United States in place of fractional currency; and

An act (H. R. No. 2934) to provide for the expenses of admission of foreign goods to the centennial exhibition at Philadelphia.

HOUSE BILL REFERRED.

The bill (H. R. No. 2473) to authorize claimants upon even-numbered sections of land within the twenty-mile limits of the Northern Pacific Railroad to make proof and payment for their claims at the ordinary minimum rate of $1.25 per acre was read twice by its title, and referred to the Committee on Public Lands.

REPAVEMENT OF PENNSYLVANIA AVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 680) authorizing the repavement of Pennsylvania avenue.

Mr. DORSEY. When this bill was passed over the other day the amendment pending was that of the Senator from Rhode Island [Mr. BURNSIDE] to insert in line 7 of section 1 the words "or cobble or block stone" after the word "wood." I hope that amendment will be adopted.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island.

The question being put, there were on a division—ayes 18, noes 14; no quorum voting.

Mr. DORSEY and Mr. MCDONALD called for the yeas and nays.

The PRESIDING OFFICER. The Chair is satisfied that there is a quorum present.

Mr. MERRIMON. I do not understand the question and ask to have the amendment read again.

Mr. KERNAN. As I understand, the amendment excepts cobble or block stone from being used.

The PRESIDING OFFICER. The amendment will be read again.

The SECRETARY. In line 7 of section 1, after the word "wood," it is proposed to insert "or cobble or block stone;" so as to make the section read:

A commission to select and determine the best kind of pavement, other than wood, cobble, or block stone, to be used, &c.

Mr. CONKLING. I understand the effect of the amendment to be to leave this commission perfectly free, without let or hinderance, to select any pavement whatever that they think it is wisest to select, except that the act will indicate that they are not expected to select a wooden pavement, or a cobble-stone pavement, or a block-stone pavement. The Senate adjudges by this vote, if this amendment shall be adopted as I hope it will be, that, although it is not prepared to settle any question between pavements, there are three pavements, to wit, a wooden pavement, a cobble-stone pavement, and a block-stone pavement, which they are prepared to say it would not be wise to put down on this avenue.

I heard a Senator inquire the other day why we should say this. Mr. President, I answer that, although we may not know what pave-

ment should be put on Pennsylvania avenue, we know that some pavements ought not to be put there. For example we should oppose a pavement of gold, or jasper, or ivory, although we hear of streets so paved. It is not necessary to exclude them in this bill. Why? Because everybody knows that no commission would select a pavement of that sort. If we thought there was the slightest danger of it, we should put in that exception. But it so happens that there is a smooth-running, agreeable pavement made of cypress blocks, or made of hemlock blocks squared, which has been tried, I think to the satisfaction, and more than to the satisfaction of every Senator who is to be called upon to vote. Therefore we say we are opposed to that kind of pavement being included in the field of selection. Every Senator is tolerably familiar with a cobble-stone pavement, and therefore we go so far as to say that our familiarity with that pavement enables us to exclude it from the field of selection. Every Senator has come to be familiar with a block-stone pavement as it is called, and therefore we say that this pavement too, we are prepared to declare ought not to be adopted. There we stop, leaving this commission to distinguish between all the pavements, whatever they may be, admissible as we think, as their judgment may direct.

Mr. RANDOLPH. What is left?

Mr. CONKLING. My honorable friend asks me what there is left. Well, there is an asphalt pavement, there is a concrete pavement, and there is a Macadam pavement such as my honorable friend has seen on the boulevards in New York and on one or two of the streets here; and traveled as I believe he is in foreign lands, although I am not, he has seen Macadam there and seen how it endures the attrition of time and of traffic. There are various forms of these pavements which I have mentioned. Two or three of those forms are to be seen in this city; and there are still others which I have not enumerated. Surely the honorable Senator from New Jersey does not put his question to imply that when we exclude block-stone and cobble-stone on Pennsylvania avenue, we have seriously impaired the list of pavements the selection from which he would approve?

Mr. RANDOLPH. It occurs to me that we have seriously impaired the list. We have not embraced the Macadam or the asphalt; and as to the block-pavement, Broadway is an evidence that it can be made a very good pavement, although a right expensive one. It is a very noisy one; and it may be objectionable to the persons who are living on Pennsylvania avenue, and it may be objectionable to those who prefer a stiller pavement, a quieter pavement to ride over. But it occurs to me that we can trust this commission with a wider discretion than that implied by the amendment. I am perfectly willing to exclude wood; but as to the exclusion of all kinds of stone pavements, I do not think it would be wise.

Mr. CONKLING. This amendment does not exclude all kinds of stone pavements; it excludes no kind of stone pavement whatever, save two: one is a cobble-stone, and the other block-stone. Every other kind of pavement, wholly of stone or partly of stone, still remains.

Mr. WITHERS. My objection to the amendment is this: It seems to me a very remarkable procedure for the Senate to select a commission of scientific engineers, to whom they desire to delegate this duty of making a selection, and then to decide for themselves what class of pavement shall not be considered by this commission. I am in favor of leaving them the widest discretion. They are presumed to be competent to examine the question in all its phases; and I think that no restriction ought to be thrown upon the action of the commission, but that they should be left free to select such pavement as in their opinion is best.

Mr. WHYTE. I understand that if this amendment is adopted it will exclude the Belgian pavement. Surely the Senate does not mean to exclude from the consideration of this commission the Belgian pavement. It has been tried, successfully tried in many of our cities, certainly in my own city, with great success, and it is likely to be adopted there very much more than it has yet been. I will vote against a cobble-stone pavement, because that is entirely out of fashion. Nobody would at the present day, I suppose, except from necessity, lay a cobble pavement. If, therefore, the word "block" is not inserted, I should be very glad to vote for the amendment; and with a view of reaching that point I ask for a division of the question, so that we may vote upon the block-stone and upon the cobble-stone separately.

The PRESIDING OFFICER. The Senator from Maryland, as the Chair understands, moves to amend the amendment by striking out the words "or block."

Mr. MERRIMON. I do not think I go out of the way when I say that the question of the character of this pavement was very fully discussed in the committee, and the committee were unanimously of opinion that an ordinary stone pavement was not desirable in any view. A good stone pavement would cost very much money, and would be a noisy one, and one unnecessary for Pennsylvania avenue, where ponderous bodies are not transported. The committee were of opinion that a smooth pavement, one made of asphalt, or some pavement of that character, would be a suitable one and a proper one. They were unanimously of that opinion; and the run of the debate here indicates that the Senate entertain that opinion. A pavement such as would be required in Broadway, New York, and the great business streets there or in Baltimore, is not required in the city of Washington. We need here a smooth pavement, and one that has great durability; and it is conceded on all hands that an asphalt pavement, or one like it, would answer every purpose. It would be wisest in point of durability and in point of smoothness, and the ease with which vehicles and passengers could get over it; and then, besides, it is not out of the way in point of cost. It would probably be as cheap or cheaper than the stone pavements that have been suggested.

That being the view taken by the committee without dissent, the committee were of opinion that it was wise, that there was no doubt about what ought to be done on the part of Congress to narrow the field of discretion as much as possible; and therefore the exclusion of wood and stone was inserted. We all know that for the last two or three years we have heard the authorities of this District and commission after commission denounced because, in the exercise of a wide discretion, they had perpetrated frauds and had done hundreds upon hundreds of acts that resulted in the injury of the people of the District and of the whole country and brought the city of Washington into disgrace. While the committee had the highest confidence in the proposed commission, they deemed it wise, they almost felt instructed, to make the discretion as narrow as it could be properly made. That was the object in limiting this discretion; and it seems to me that, as there is no reasonable doubt about the fact that the pavement ought to be one of asphaltum or some such substance that would answer every purpose, we ought to narrow down the field of discretion as much as possible by excluding wood and stone. If we had a pavement on Pennsylvania avenue like the pavement on Broadway, New York, or some of the pavements in Baltimore, people could scarcely live along the street at all; the noise would be intolerable. Indeed, after it became smooth it would be dangerous to pass over it.

I have deemed it worth while to say this much in defense of the committee and in furtherance of what I deem the best policy that ought to be adopted by the Senate.

Mr. COCKRELL. I desire to ask the Senator from North Carolina one question, and that is, whether the committee considered the question whether the present pavement on Pennsylvania avenue would do for one year longer?

Mr. MERRIMON. I answer my friend very frankly that that was considered, though we did not deem that that view of the matter was particularly referred to us. The committee regard the pavement on that street as in a very ruinous condition now; it is perhaps not to be called dangerous, but it is scandalous in appearance and very inconvenient to the vehicles and persons and horses that pass over it. I think there is no difference of opinion about the fact that the street must be repaved, and at a very early day. There is no escape from it.

Mr. HITCHCOCK. Mr. President, I concur with what has been said by my colleague on the committee, the Senator from North Carolina, [Mr. MERRIMON,] in regard to the unanimous opinion of the committee that all stone should be excluded as material for this pavement. But this amendment, if adopted, does not, as I understand it, exclude the Belgian pavement. The Belgian pavement is not, as I understand, a block pavement; it is a rectangular pavement, consisting of narrow slabs set edge-wise. If this amendment is adopted, that pavement will be among the materials from which this commission is allowed to select, and it is not, as the honorable Senator from Maryland supposes, excluded. Block pavement, I understand, is a pavement of square blocks of stone.

Mr. EATON. If it does not exclude Belgian pavement, I hope there will be another amendment introduced so that it shall be excluded. I think the committee have done wisely in leaving as little discretion to the commission as possible. From some little experience in paving of this character, I do not believe that square blocks of stone, or rectangular blocks, or Belgian pavement, as it is ordinarily called, or the cobble-stone would answer for this Avenue. I think the duty of Congress is, so far as possible, to determine what this pavement should be. I have my own theory in regard to the matter; I do not know that I care to express it to the Senate now, because these competent engineers doubtless understand the subject much better than I. Much of Pennsylvania avenue runs through very low and what was once swampy ground; and therefore, in my judgment, there never can be, there never will be, a well-paved street there until it is thoroughly drained, first underlaid with a coating of broken stone, and over that stone the concrete or the asphalt put. That, in my judgment, is the only pavement that is proper for this Avenue. Therefore I am prepared to vote that there shall be no square blocks or rectangular blocks, or cobble-stone pavement on this Avenue, and leave it to this board of commissioners to determine what is the best outside of those, the concrete, the asphalt, the Macadam, or any other species of pavement.

I trust that the amendment of my friend from Maryland [Mr. WHYTE] will not be adopted, and I think the stone should be stricken out.

Mr. LOGAN. Let the amendment be stated.

The PRESIDING OFFICER. An amendment to the amendment is now under consideration.

Mr. LOGAN. Let us hear both the amendment and the amendment to the amendment.

The CHIEF CLERK. The pending amendment is to insert after the word "wood," in line 7 of section 1, the words "or cobble or block stone;" and the amendment to the amendment is to strike out the words "or block."

Mr. LOGAN. I do not know that I can add anything to what has

been said which will be calculated in the least to enlighten any Senators on this subject; but in noticing the debate here I have been a little surprised at one or two statements which have been made, and especially at one made on a previous occasion by the Senator from Iowa, [Mr. ALLISON.] I am not appointed for the purpose of defending any commission, or Congress, or anybody else; but I notice that it seems to have become very fashionable, especially in the Senate Chamber, when anything turns out to be a failure, that the Senate are always ready to accept the responsibility and charge it upon themselves. I do not agree to that proposition, nor have I agreed to it since I have been here at any time. It was stated by the Senator from Iowa that the Congress of the United States was responsible for the failure in the pavement of Pennsylvania avenue. I presume—for probably it is presumption on my part—to say that I do not believe that proposition. The responsibility of the failure of the pavement on Pennsylvania avenue is because of the manner in which the contracts were made and the frauds that were perpetrated under the law that Congress passed, and not because Congress passed the law. Acting upon that hypothesis, Congress now proposes to do what? If a law is passed under which persons act, and they perpetrate frauds, and Congress has not enough nerve to unearth those frauds and show who perpetrated them, then the whole responsibility is laid upon Congress.

Now, let us see what this bill proposes to do. It proposes to do the very self-same thing that the Senator from Iowa said had been done by Congress heretofore. What is that? That Congress assumes the whole responsibility, and hence there is no responsibility placed upon any one else. How does it assume it? First, by declaring, at least inferentially, that there are no persons that can be trusted except a certain class in this country. If no one can be trusted except that class, then why not leave it to that class to determine what kind of pavement we shall have? If they are more honest than members of Congress; if they are more honest than civilians; if they are more honest than anybody else, why not have Congress appoint these honest men to be a commission, and let them determine, and then the responsibility will be placed upon men against whom there can be no suspicion.

But Congress proposes to do a different thing. Congress proposes here to say to this commission, "You are appointed for the purpose of selecting the character of material that shall be used for the paving of Pennsylvania avenue, but while we choose you as an honest commission to perform that duty we indicate to you that you are not to take any material except one particular class of material." Why do we say that? Why do we cover up in this bill the fact that it means that this commission shall pave Pennsylvania avenue with just one kind of material and none other? Why not say that? If Congress is to be responsible for the want of having a good pavement here, why will not Congress have the honesty at least to indicate the character of material that this commission are to take? You do that in an indirect way in the bill. You say they shall not take wood; that they shall not take stone. What then shall they take? They cannot take Macadam. Why? You do not exclude it, but yet under the bill they cannot put down a Macadam pavement on Pennsylvania avenue, although some gentlemen say that is the best pavement. Why can they not take Macadam? Because you must underlay it with stone and you exclude stone in your very bill.

Mr. MORTON. The surface may be of broken stone.

Mr. LOGAN. The surface may be of broken stone; but gentlemen speak about the manner of the pavement in Central Park. That is paved by first putting down stone and then covering it over, and then covering it again with broken stone. That is a Macadam pavement.

Mr. CLAYTON. That is not Macadam.

Mr. LOGAN. What is it?

Mr. CLAYTON. It is not Macadam. Macadam is broken stone alone.

Mr. LOGAN. Very well; Macadam is broken stone on the surface.

Mr. CLAYTON. Alone.

Mr. LOGAN. Very well, alone.

Mr. CLAYTON. Is the whole broken stone?

Mr. LOGAN. You cannot pave the Avenue with broken stone under your bill; you cannot use Macadam, because the word "stone" embraces broken stone as well as unbroken stone. Therefore you exclude that character of pavement. What kind of pavement do you propose? I want some gentleman on the committee to tell me what kind of pavement the committee is in favor of, and probably that will throw some light on the subject.

Mr. MERRIMON. To be obliging to my honorable friend from Illinois, I will tell him that the committee were clearly of the opinion that it would not do to have a wood pavement. That has been tried. We were unanimously of opinion that it would not do to have what is called an ordinary stone pavement such as there is on Broadway, in New York, and on most of the business streets of Baltimore. We thought it ought to be an asphaltum pavement, or one like that.

Mr. LOGAN. It could not be one like that unless it is that, for there is nothing else like it.

Mr. MERRIMON. I cannot mention the technical names of all of them. There is quite a variety of them. You might put Macadam at the bottom and asphaltum on the top. Our purpose was to leave it to the discretion of the commission as to which of the various classes of asphaltum were the best, or whether it would be well to combine Macadam and asphalt, making a Macadam foundation, as suggested by the Senator from Connecticut, [Mr. EATON,] and putting the asphaltum on top. We were of opinion unanimously that it was not wise to have it of wood or to build the ordinary stone pavement; and because we were so unanimously of that opinion we deemed it wise to so recommend it in the Senate. I think that the tone of the debate here has indicated that the Senate is of the same opinion, to wit, that it ought not to be made of stone or wood. If that is the sense of the Senate, why should we leave that to the discretion of the commission? We want their scientific opinion and their judgment as to the other classes of pavement, exclnding these two. We do not want it of stone or wood, and therefore we excluded those materials by the bill.

Mr. RANDOLPH. Will the Senator from Illinois yield to me a moment?

Mr. LOGAN. Certainly.

Mr. RANDOLPH. It seems to me after what the Senator from North Carolina has said about this matter that the committee are anxious to have the judgment of these commissioners, General Humphreys and others, and yet exclude them from using that full and free discretion which is necessary to a proper decision. As I said to the Senator just now, it seems to me like granting the right of suffrage to everybody, provided they will vote, for instance, the democratic ticket. Thus these commissioners are permitted to take any sort of pavement they please, provided they will use the asphalt. That is about what it comes to.

Mr. LOGAN. That is what it means.

Mr. MERRIMON. No, sir; the gentleman does the committee injustice, and I think, inadvertently, the subject injustice. What the committee say is this: "We do not want the pavement made of two articles, but, as to all other articles of which the pavement might well be made, we leave that to your judgment." We exclude two things. There are two things which we do not want, to wit, wood and stone; and as to all other kinds of pavement we invite their judgment.

Mr. LOGAN. If the Senator will allow me I think I can convince him that he is mistaken in the proposition which he now states. He says that under this bill the committee thought they might use stone for the base and asphaltum for the surface. Am I to understand him to say that?

Mr. MERRIMON. That would be a sort of combination.

Mr. LOGAN. I say that under this bill they cannot do that. Let us read and see if I am correct. Certain officers are—

Appointed a commission to select and determine the best kind of pavement, other than wood or stone, to be used in paving Pennsylvania avenue.

In other words, they are to select the best character of material to be used except—what? Except stone or wood, which are not to be used. How are you going to make a base of stone for asphaltum under the bill?

Mr. MERRIMON. The mere bed upon which the asphaltum would rest would not be the pavement.

Mr. LOGAN. It would not. Would it not be a part of it?

Mr. MERRIMON. It would be a part of it; the base of it.

Mr. LOGAN. I ask the Senator to tell me what a pavement is. Is it the mere stuff that you smear over the surface of the ground? That is not a pavement. To make a pavement you have got to include the base as well as the surface. Pennsylvania avenue is paved now with wood. What does that mean? Does that mean that the mere blocks that are put together with pitch, or whatever it may be, that is poured in, with gravel thrown over it, form the pavement? If the Senator means that, I say to him that he is mistaken. The first thing to do is to level the ground and put the boards down upon which the blocks rest. The boards upon which the blocks rest are as much a part of the pavement as the blocks or gravel that form the surface are part of it. So it is that, in paving, the material for the base is a part of the pavement and the other material is merely put on to make the surface smooth. I am not in favor of a wood pavement. Where I live I believe the wood pavement is the best pavement we have; but perhaps experience has taught us here that in this climate the character of wood used is such that it is not the best material for a pavement in this city. I think probably that is true. I have no choice, so far as I am concerned, and I have no feeling on the subject except that I think if you appoint a commission for the purpose of examining and determining the character of material to be used in making a pavement over which you shall travel, you should let that commission have their judgment unconfined and unrestricted in reference to the choice of material. Let them choose that which is the best for the purpose of paving the Avenue, and let us except nothing. I do not presume that they would pave this Avenue with cobble-stones. If they should undertake to pave it with cobble-stones, I presume at this time the people would say that they were going outside of the better judgment and outside of the experience of the time in reference to a pavement. Hence they would not be likely to do that, if you leave them free to choose that which they may deem best. If it is best to make the base for asphaltum of stone, let them make the base of stone, and then you will add durability to that which will cover the surface of the Avenue.

I must say that I cannot agree with the committee or with what has been said on this floor in reference to the selection of materials. If these men are to be trusted, trust them as you would trust any hon-

est man. Trust them, not as you would an idiot, an ignoramus, or a fool. This bill first trusts them because they are honest; then because they are experienced; and in the third place it refuses to trust them because you think they are ignoramuses. Is that what is intended? That is the meaning of the bill.

Mr. MERRIMON. Will the honorable Senator allow me to interrupt him a moment?

Mr. LOGAN. Certainly.

Mr. MERRIMON. I simply wish to propound a question with a view to illustrating the propriety of the course taken by the committee. If the honorable Senator should have occasion to build a house in Illinois he would appoint an agent to superintend it; and if he did not want stone, and did not want wood, he would be apt to say to the agent, "I am going to Washington to attend the Senate; I want you to build a house for me; but I desire two things out of it: I do not want you to build it of wood and I do not want you to build it of stone. As to all other building materials, you may exercise your discretion." The committee were of the opinion that the interests of the District of Columbia as well as of the whole country demand that this pavement ought not to be made of wood, and that it ought not to be made of stone. They recommended that to the Senate. They thought that would meet the approbation and judgment of the Senate. It is for the Senate now to say whether that is their judgment. I put the question to my honorable friend whether or not he would be apt to give his agent special instructions as to the material of which he did not want his house built?

Mr. LOGAN. Mr. President, I may illustrate the Senator's position by a story. I think he is in the condition that a certain gentleman once was who did desire to build a house. Inasmuch as the Senator puts that illustration to me and asks me what I would do, I will tell him that I once heard of an old gentleman who invited all his neighbors in to fix the location for a fine house that he was going to build. They all gave their views. When they got through, said he: "I like your views very much, but, gentlemen, I will build the house just where I please."

That is what the Senate proposes. You have invited a commission to tell you the character of the material you shall choose for paving this Avenue. After they tell you, then you say "no; not at all; we have pointed out in this bill the character of material you shall use and the character you shall not use."

Mr. MERRIMON. We leave it to their discretion except in two things.

Mr. LOGAN. That is, you except wood; they cannot use wood at all as a material, though it may become necessary to use it for some purpose.

Mr. MERRIMON. I do not think a court would give the language of the bill that construction. I do not think my honorable friend would if he were going to give his client legal advice.

Mr. LOGAN. I say that the language of the bill does mean just that precisely. You cannot use wood according to the Senator's own statement. A while ago he said you might use stone as a base. Now, if you can use stone as a base, can you not use wood as a base? I should like to know the difference. You cannot use either one according to the meaning of this bill. There is no right to use either one in any way whatever as a part of the material.

I have other objections to this bill. I certainly am as far as anybody from making insinuations in reference to rings or cliques or anything of that kind as any man in the world. I do not believe in such things. Hence I say to the Senate, in order that the Senate and the Congress of the United States may not at all times be charged with every responsibility and every failure that occurs in this country under their law where men act corruptly, that in making a law of this kind they should open it so that when you charge a commission with the performance of a certain duty that commission shall be responsible for the manner in which that duty is performed. The trouble we have had has not been the fault of the law; it has not been the fault of Congress, but the fault of the agents, owing to the manner in which the law was executed or the views of Congress carried out.

While I am up I will make one other suggestion in reference to this bill. In line 5 of section 1, I suggest to the committee that an amendment ought to be made. The bill reads that "Brigadier-General A. A. Humphreys, Chief of Engineers, General H. G. Wright, General Q. A. Gillmore, of the Engineer Corps of the United States Army, be, and they are hereby, appointed," &c. These three gentlemen are gentlemen of experience, education, and honor. I do not question that. Right after the word "Army" should follow "without extra compensation" or "without compensation other than their Army pay." That ought to be in the bill. If it is not in the bill, you appoint men to service out of the line of their duty, for which they will be entitled to pay.

Mr. WHYTE. Will the Senator from Illinois allow me to ask him whether the bill ought not to request the President of the United States to detail them for that service? Is it in order for Congress to direct officers of the Army where they shall go and what they shall do?

Mr. LOGAN. I think the bill ought to be amended as the Senator suggests. I will not say that Congress has not the power to do what is here proposed, because God knows recently it seems to have power to do anything on earth, to reach up to the angels in heaven and dictate to them what they shall do. But, strictly confined to the letter of the Constitution, Congress has no right to detail officers from the Army to perform duty. That would be my opinion.

Mr. MERRIMON. Will the Senator allow me to say a word touching this point which the Senator from Maryland has raised?

Mr. LOGAN. Certainly.

Mr. MERRIMON. The committee were not unmindful of that point. I suggested myself, I believe, that under the Constitution the President of the United States appoints all officers except certain officers that Congress may allow the heads of Departments or the courts to appoint; but when we came to consider this matter we found that this was merely assigning another duty to an office already in existence. These officers are assigned this duty; and if, under the law, it becomes necessary, it will be the duty of the President, in pursuance of this statute, to assign these officers to this duty.

Mr. WHYTE. I have prepared an amendment, which hereafter I will offer, asking the President to detail these officers.

Mr. LOGAN. I think that is proper, and I will indicate now to the Senator from North Carolina wherein he makes a mistake, in my judgment. You say you merely assign a duty to officers to perform. In the assigning of that duty you assign it not to the Corps of Engineers at all, but you assign it to individual officers of that corps. If you assigned this duty to the Corps of Engineers, it would be an additional duty belonging to that corps to perform, for which officers might be detailed from that corps by their chief or by the President of the United States; but when you assign the duty to specified persons of a corps, it is a duty not assigned to their branch of the service, but to individuals. Hence it is not a correct provision of law.

Mr. MERRIMON. I think, without a great deal of reflection or examination, that it is perfectly competent for Congress to assign a new duty to an office, and to direct the present incumbent to discharge that duty. I apprehend it to be competent for Congress to pass an act directing the President to assign the General of the Army to command west of the Mississippi River.

Mr. LOGAN. Let me put a case to the Senator. I believe under the Constitution and laws the President of the United States is Commander in Chief of the Army and Navy, is he not?

Mr. MERRIMON. Under the law.

Mr. LOGAN. Under the Constitution, is it not?

Mr. MERRIMON. Yes, sir.

Mr. LOGAN. Very well. Now, inasmuch as the Senator and I differ, I will put a case. Suppose you, by an act of Congress, assign a duty to the Chief of Engineers to-morrow, and the President of the United States details him and assigns him to some other duty, what does your law amount to?

Mr. MERRIMON. I apprehend the President in that case would violate his duty as President of the United States.

Mr. LOGAN. I do not apprehend any such thing. The Constitution clothes him with the power to assign officers of the Army anywhere he chooses in strict accordance with their duty, and the lawyer who insists that Congress can deprive him of that power is not, in my judgment, as thorough in constitutional law as he might be. What would your act amount to? Suppose you pass a law to-morrow depriving the President of the United States of the right to assign officers of the Army anywhere, what would your act amount to? It would be in clear violation of the Constitution, and any court would set it aside in a moment by their decision; at least they would decide that there was no force in it.

It seems to me there is no proposition clearer than this, and none can be made clearer. I know heretofore when duties have been assigned to officers of the Army wherein they were mentioned by name, the bills have provided that the President should appoint them to that duty. When you put an Army officer on the board of commissioners for the District of Columbia, I opposed it in the Senate at the time it was done, as Senators will remember perhaps; but there the provision was put in the bill that he should be appointed by the President. That brought it within his power. He could assign by appointment, but without that your law would have amounted to nothing.

There is another objection; and I am merely making these suggestions to the committee that they may make the bill better. I know it is a foregone conclusion, and there is no use of my fighting against this thing. I do not propose to take up the time of the Senate in doing so. Whatever my views may be, I do not propose to make an exhibition of myself here in opposition to a thing that I know the Senate is going to favor. It is not my object to attempt to defeat the bill. I know I could not do it. But my object is to try to point out wherein the bill is imperfect that it may be made better; better for the Congress that passes it, and better, too, for those who have to administer the law.

Section 2 provides—

That within ten days after the passage of this act, or as soon thereafter as may be, the commission named herein shall meet and organize by the election of a president and secretary from among their number, and shall proceed to perform the duties herein imposed upon them; and within ten days after they have determined upon the pavement to be used—

Mr. DORSEY. The Senator has omitted an amendment which is put in there. After the word "days" an amendment was adopted when the bill was up before inserting the words "or as soon as practicable."

Mr. LOGAN. I did not know that. I have one of the bills as printed.

Mr. DORSEY. The amendment was made in the progress of the bill the other day.

Mr. LOGAN. I did not know it. I saw that defect in the bill. I did not notice that an amendment had been put in there; but it obviates my objection as a matter of course. It was not in when the amendment was adopted. I am only reading from the bill as given to me by the Clerk supposing it was correct and contained the amendments already adopted.

I do not know that I care to say anything more in reference to this bill. What I have said has only been by way of suggestion that the bill may be made better. There are other objections that I have to it, but they are not objections going to the points I have named. I should object to the whole of it for reasons that I have not given; but it is unnecessary for me to state them now. In my judgment the committee ought to agree to strike out the words "wood or stone," and leave the matter entirely open. We know the commission will not select wood; everybody understands that. But you confine them within a certain scope in their judgment; and in that confinement they may understand from this bill that you have indicated that they shall go in a certain direction; that, in other words, although you have not said so, you have clearly indicated to them the character of pavement that they shall select, some particular patent or other that they shall follow. I presume neither Congress nor the committee wishes to be, even seemingly, placed in that light.

Mr. MORTON. Mr. President, this bill provides that General Humphreys, General Wright, and General Gillmore, engineers of the United States Army, shall constitute a commission to build this pavement. It is said that everything should be left to the judgment of this commission. Now I presume that these gentlemen are very competent engineers; but I presume that, so far as laying pavements is concerned, they have not much more experience than we have. Perhaps they have never had occasion to study the subject and practically do not know anything about it; and if they are appointed, they will have to go to work and learn it just as any other commission would do. Perhaps their skill as engineers will enable them to learn it a little sooner.

Mr. DORSEY. Will the Senator from Indiana allow me a word? He is entirely in error in respect to that. General Gillmore and General Wright have been for many years the acknowledged authorities on all questions of pavements, especially concretes, and General Gillmore has written quite a voluminous book on the subject. It was that fact which called my attention first to his ability in this direction. I have no question that he is by far the best judge of what is a proper pavement of any man in this country. I have no doubt of it.

Mr. MORTON. I did not know that fact. I only know these gentlemen by reputation as Army officers; and I never heard that they were engaged as officers of the Army in building pavements; but they may have written books, and may be qualified. The presumption with me was that this would be rather a new business to them, as it would be to us if we were called upon to build pavements. But I did not make that suggestion for the purpose of opposing the bill, as my friend will come to understand. I supposed these gentlemen would have to learn this business, and that there would not be so much presumption on the part of the Senate in saying that they should not take certain materials, or should not make a certain kind of pavement. While I have confidence in the judgment and ability of these men, I have just as much confidence in my own experience in regard to certain kinds of pavement. I have been traveling over pavements for a good many years, and over some dirt roads, such as my friend from Illinois [Mr. OGLESBY] has been in the habit of traveling on, and I have yet to find a smooth stone pavement as compared with what may be called an asphaltum pavement; and I never expect to find one. I have traveled over what would be considered good stone pavements, and I have never yet found an easy one; I have never yet found a comfortable one. They can be made comparatively smooth; but if a stone pavement is made entirely smooth like an asphalt pavement, a horse cannot pull on it and cannot stand up on it. Consequently, a stone pavement has to be comparatively rough. Therefore I would exclude stone pavements in this bill.

One word in regard to the construction put upon the bill by my friend from Illinois, [Mr. LOGAN.] If this bill is to be so construed, because it says "other than wood or stone," as that stone cannot be used in the foundation, that is wrong. I gave that language construction as referring to the surface of the pavement; but no asphaltum pavement can be constructed without stone for the foundation.

Mr. DORSEY. I will say to the Senator from Indiana that the amendment which is now pending before the Senate is perfectly clear on that subject. It says "cobble or block stone." Block-stone is not used for the base; it is for the surface.

Mr. MORTON. That amendment would not be entirely satisfactory, because that would leave the commission open to adopt a macadamized pavement, would it not? I am opposed to any macadamized pavement in any city, I do not care whether it is built of limestone or of freestone, because a macadamized pavement, built of small pieces of broken stone, is necessarily a dusty pavement. The attrition of these small pieces of stone constantly produces dust, and in a city where there is so much travel over a street as there is on this avenue the dust would be almost unendurable in the summer time. I would therefore be opposed to a macadamized pavement under any circumstances, I do not care what kind of stone it is made of. The very nature of the structure of the surface produces dust. My friend never traveled over a macadamized pavement that was not a dusty one in dry weather, and it raises the worst kind of dust—fine, impalpable dust.

Mr. SPENCER. They would have to keep constantly sprinkling it.

Mr. MORTON. Yes, sir. Therefore I prefer to have this as it is, unless there should be some words added to show that it does not refer to the foundation of the pavement, because an asphaltum pavement must have a stone foundation. Giving it the construction the Senator from Illinois does, the language is wrong; but it might be so amended as to show that it refers to the surface of the pavement.

Mr. LOGAN. The language is "other than wood or stone, to be used in paving Pennsylvania avenue." I ask the Senator to read it in that light, and see if I am not correct.

Mr. DORSEY. The other day when this bill was up the words "or stone" were stricken out, the word "wood" only remaining in the exception. On the motion of the Senator from Rhode Island, [Mr. BURNSIDE,] the words "or cobble or block stone" were proposed to be inserted after "wood." As the bill now stands, the word "stone" is not there at all.

Mr. LOGAN. When was it stricken out?

Mr. DORSEY. The other day.

Mr. MORTON. I would oppose that, because I would oppose my personal experience to the judgment of any board of engineers so far as a stone pavement is concerned. I have never yet found a smooth and comfortable stone pavement.

Now, one word in regard to the character of this pavement. I believe an asphaltum pavement can be constructed that will be durable, and nobody questions that it is the most comfortable pavement to travel over that has ever been built. You may take the best wood pavement in this town when it first comes from the hands of the contractor, and driving a carriage from that on to a smooth asphaltum pavement the difference is at once perceived, and everybody appreciates the comfort of it. Pavements ought to be constructed, as far as possible, with regard to comfort and pleasure in traveling over them. If you take a carriage now and start out over the streets of this city, trying first the best wood pavement and then trying the asphaltum pavement, the superior comfort of traveling over the asphaltum pavement is appreciated and noticed at once before you have been on it twenty feet.

I do not say that the pavement problem is entirely solved, but think it is pretty near it. There are asphaltum pavements in this city now that have been down for years, and you can hardly see the mark of a wheel on them, they are so hard and they are so perfect. I should regret to see any other kind of pavement put on this avenue, even if it was done gratuitously. I think that in constructing this pavement two or three things ought to be considered. One would be the expense. As a matter of course, we should consult economy to a reasonable extent. The next is durability, and the next is comfort, and perhaps that should be the first. You may take the best stone pavement you can find in the city of New York, or Boston, or Montreal; you may take the best wooden pavement; and they bear no comparison to a good asphalt pavement, so far as the pleasure of travel over it is concerned. My opinion is also that it is a saving in regard to horses and in regard to carriages. There is a great deal less wear on vehicles upon smooth pavements than there is upon rough pavements. I think the same thing is true in regard to horses.

Mr. LOGAN. While the Senator from Indiana is up I wish to make a suggestion to him. I had been detaining the Senate to such an extent that I stopped before I was through. I ask the Senator from Arkansas if section 3 has been amended so as to allow cobble-stones to be used instead of block-stones between the railroad tracks?

Mr. DORSEY. The words in italics in lines 9 and 10 have been stricken out, and the word "rectangular," in line 7, inserted in place of the word "square."

Mr. LOGAN. The reason that I asked the question is, that at the time the pavement was put down there was quite a discussion in the House of Representatives, of which I was then a member, and the railroad companies insisted that cobble-stone was the only character of stone to be placed down between the tracks that it was safe for horses to travel over, and I have seen a circular since that from some of the railroad companies insisting upon the very same thing. At that time the question was fully discussed in the other House, and I remember perfectly well that on the information we received there we put in a proviso to allow the companies to pave between the railroad tracks with cobble-stones as being the preferable material for the travel of horses.

Mr. WEST. If the Senator will permit me, I should like to ask whether there were not cobble-stones there at that time?

Mr. DORSEY. There were.

Mr. WEST. I think that that fact and the fact that cobble-stones are there now is the reason of the preference of those companies for cobble-stones, because, if cobble-stones can be given the preference, it will save them that much expense; but really in fact the rectangular stone is as good as the other.

Mr. LOGAN. I know nothing about it; I only make the suggestion. I know they say that in reference to the horses; and that is all I know about it. If the other stone is the best material for the horses, they certainly would have used the other stone, I suppose. That argument, at least, has its force on my mind.

Mr. SPENCER. If the Senator from Illinois will permit me, I should like to state that the use of cobble-stones is a matter of economy to the railroad company. Rectangular blocks will form a much prettier pavement.

Mr. LOGAN. The cobble-stones between the railroad tracks are not traveled over by our horses; they are traveled over by the railroad horses. Now, if the railroad people put down a cobble-stone, and it is cheaper and yet just as good a pavement as the other, I want to know why we should object to it?

Mr. SPENCER. I can state the objection. People with carriages very often have to cross the railroad track, and it is a great deal better for them to have a comparatively smooth track than one that is very rough.

Mr. LOGAN. So far as the part between the railroad tracks is concerned, it is not a matter that attracts my attention. That has nothing to do with our driving or the driving of the community. I care nothing about it myself; and I certainly know nothing about it. But I read a circular this morning—and that is what called my attention to it—which I found lying on my table, and I suppose it is on the table of every other Senator, calling attention to that fact and stating that cobble-stones were preferable for the travel of horses. I believe it, and I will state why. If you put down a smooth pavement between the railroad tracks, what will be the consequence in slippery seasons of the year? Any man, in my judgment, who knows anything about horses traveling, must be aware that the horses will travel more safely and with more speed over stones that are a little rough than they will over smooth stones in time of ice or freezing weather.

Mr. SPENCER. It is not intended to put down an entirely smooth pavement. It is intended to put down rectangular blocks with plenty of places for the horses to plant their feet with firmness.

Mr. LOGAN. Rectangular blocks do not change the character of surface. I care nothing about it; I merely suggest it.

Mr. DAWES. I think it has been suggested by those who make the habit of the horse a study that wood is the very worst possible material for a horse to stand or travel on. In his stable a granite floor or a brick floor is much more preferable for the horse, and more conducive to his health and his continuance of soundness than wood. So in the travel upon the road, it has been tested by those who have written upon the habit and endurance of the horse that wood is the worst of all roads for him to travel on; that a smooth or comparatively smooth surface like the block pavement is the next; that asphaltum is the next; and the best track for the horse to travel on, which he will seek of his own accord, upon which he will draw the greatest load, upon which he will manifest the most ease and comfort, is the cobble-stone. There is no doubt about that among those who understand what the horse can do. I do not speak about the beauty or propriety of it; but I can see plainly that an asphalt pavement between the tracks will render it almost impossible for the horse to do the service that is required, and next to that would be wood, and next to that would be this block pavement. Whether it is not proper after all to require a block pavement I am not going to say. I have no doubt a pavement of cobble-stones is cheaper, and that probably is a great deal of the motive on the part of the railroad company; but at the same time it is cheaper with them, not only because it costs less to lay it down, but because the horse will endure more and perform more upon that kind of pavement than any other that is used.

Mr. MORTON. One word about wooden pavements. There is something very curious in the experience of the country in regard to wooden pavements; they stand very well in some cities, and in others they do not. They have endured very well in Chicago, while here they are rotting off within two or three years. In the city of Indianapolis they will not stand. It is very curious that while wooden pavements are now being repudiated here and in most of the eastern cities, there are towns where they are now putting them down; and I suppose nobody will learn in regard to them except by experience.

But there is one question connected with this bill which in my opinion is more important than any other. I think I shall vote for the bill as it is; but I desire to call the attention of the committee and of the Senate to a consideration in connection with the third section of the bill. The bill provides that this pavement shall be paid for, one-third by the property-holders on Pennsylvania avenue, that is, one-sixth of the expense of the pavement will be borne by the property-holders on each side; and then the District itself is to pay one-third out of the fund raised by general taxation, and then the United States pays one-third. I want to understand upon what principle it is that the District is to pay one-third of this expense.

Mr. MERRIMON. The people of the whole District are interested in it to some extent certainly. All the people travel over it more or less.

Mr. WEST. I will mention to the Senator from Indiana that in paving all other streets the District pays one-third.

Mr. BAYARD. I will say to the Senator from Indiana that I propose to offer an amendment touching that subject, of the proportion of this expense to be borne by property-holders along the route of the street. The matter has been brought to my notice by some persons in interest, and I desire to submit to the Senate, when the occasion shall arise, an amendment which shall limit and decrease the proposed portion of expenses to them. I think it exceedingly unjust as it now stands, and I desire to submit to the Senate, when no other amendment is before it, a proposition to regulate that portion of the cost of this pavement which the property-holders along the line of Pennsylvania avenue should equitably bear. If it be not out of time, I will state the facts to be about these: Under a computation which has been handed to me, the cost of the pavement of 1871, and the pavement now proposed to be laid down in 1876, as assessed upon each property-holder, would be thirty-five dollars and some cents a front foot. There is in the report made by the Committee on the District of Columbia, submitted by the Senator from Arkansas, [Mr. DORSEY,] a statement which I think is palpably erroneous, to the effect that the cost is to be but $9.56 per front foot to the property-holders. That, I am assured, is an error. There are extracts from the report of the commissioners of the District, on page 2 of this report, stating a rate per foot of about $9.56, with a small fraction added, stated here in decimals as the cost per foot.

Mr. DORSEY. Will the Senator yield to me for a moment?

Mr. BAYARD. Certainly.

Mr. DORSEY. The Senator has just stated that the figures in my report were entirely erroneous. I am glad to say that those figures were based on the report of the engineer of this District and of the commissioners, and the statement is precisely that made by the engineer of the District.

Mr. BAYARD. I understand it is not stated by the Senator, because he has quoted the source from which he derives it; but what I say is, that the report of the commissioners, which has in some degree been adopted by the Committee on the District of Columbia, is inaccurate.

Mr. DORSEY. If the Senator will go over the figures of the engineer of the District showing the charges made against the property-holders on the Avenue, against the general revenues of the District, and the sum paid by the Government, he will find that the engineer's statement is substantially correct. I believe it is entirely correct. I ran over the figures, not very closely, but enough to see that the cost per front foot was something less than $10, and I doubt very much whether the Senator is correct in stating that it is more than $30. I think that is more than the entire cost of the pavement.

Mr. BAYARD. There can be no difficulty in a correct ascertainment of the facts. Perhaps the best test would be the production of such bills as I hold in my hand in respect of the pavement of 1871. I have bills for several lots of land along the Avenue of the cost of the pavement which was laid in 1871. Here is one, on lot 33 of reservation A—a bill of $488.99 for a lot of twenty-five feet front. That would be $19.55 a front foot, and such was undoubtedly the amount of tax paid for the pavement laid in 1871. The bills which I hold in my hand disclose that fact. That is the fact, and there is no getting over it, because the amount was paid at that time.

Mr. WEST. Will the Senator permit me a question?

Mr. BAYARD. Certainly.

Mr. WEST. Possibly that might have been a corner lot, so as to involve paying for paving an intersection.

Mr. BAYARD. No; it was not a corner lot.

Mr. WEST. Does the Senator know it was not?

Mr. BAYARD. Yes, sir; the plot has been handed to me. The lot is in the center of the square.

Figures have been given me to show that if the estimated expense of $300,000 for paving this Avenue is assessed upon the private property along the route on the same basis as the assessments made in 1871, there will have been a cost to the property-owners of $34.35 per front foot of their lots. I submit to the Senate that such a tax is crushing and unjust. It cannot be paid without such serious loss as to amount almost to a confiscation of the property.

Let the Senate not forget that much of the property along this route is held by those who are simply tenants for life, by widows who may have the right of dower, or widowers who may have a right by the curtesy, and who, having simply a life estate, cannot bear such taxation. It would fall in a very great measure on life tenants; but whether it falls on the tenant in fee or whether it falls on the tenant for life, the question still is whether it is just to impose so heavy a tax upon property as this. It is to remedy that injustice that I have prepared an amendment, which I will send to the desk now to be read, if in order.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) It is not now in order.

Mr. WEST. Let it be read for information.

The PRESIDING OFFICER. The amendment will be read for information.

Mr. BAYARD. Let it be read now for information, and I will offer it when it is in order.

The CHIEF CLERK. The proposed amendment is to insert in line 11, of section 3, after the word "commission," the words:

The cost of paving the intersections of all streets and avenues and all public parks lying and abutting upon said avenue to be paid out of the general revenue of the District, except the portions of such intersections lying between the tracks of the said railroad company and two feet on each side thereof, which shall be paid by the said railroad company. The cost of the said pavement lying between the Botanic Garden and a line two feet outside of the westerly side of the said railroad tracks to be paid by the United States; and, after the aforesaid deduction, the residue of the cost to be paid as follows.

Mr. BAYARD. Then the "as follows" will read:

By the owners of private property lying and abutting on said Pennsylvania avenue in proportion to their frontage thereon, one-third. * * * One-third to be paid by the United States out of any money in the Treasury not otherwise appropriated; and the remaining one-third out of the general revenue of the District of Columbia.

There has been handed me a diagram of the Avenue, which is open to the inspection of any gentleman who desires to examine it, showing the frontage of private property, the frontage of park distances, the frontage of United States property, and the distances covered at the intersections of the streets. The result of this diagram, which I believe to be entirely correct and which is made up from official sources, shows that there is a frontage on both sides of the Avenue of something over twelve thousand feet, (the exact figures are there;) that very nearly one-half of that frontage is covered by the intersections of the streets and by the park spaces, leaving a little more than one-half of the private property which is to be assessed for the improvement of this pavement.

It seems to me very plain that the property-owners of this District hold a very peculiar position in respect of the rest of the country. This is the Federal city. The streets are used far more by citizens of other places than Washington than by Washingtonians themselves. The pavement laid some three or four years ago is found knocked to pieces. Justice requires you to repair the damage done by the use of that pavement by other than the people of Washington. I do not know how to ascertain it, but I have a very strong conviction that upward of 90 per cent. of those who drive over these luxurious pavements are not citizens of Washington at all. These pavements are kept in order for the luxury, the accommodation, and the benefit of non-residents far more than of residents. Taking that fact as the true basis of our estimate of cost, it seems to me that we must consider in apportioning this burden upon an unrepresented people here the use that they have for the property, or, rather, the proportionate use they have for the property with other citizens of the United States. I have endeavored to accomplish this by the amendment which at the proper time I shall ask the Senate to pass upon. It provides that the intersections (which front on no one's property, which the adjacent property-holder has no benefit from any more than those who do not live near them) shall be paved out of the general fund of the District; that then the portions of the street immediately in front of United States property, especially the Botanic Garden, (which I think reaches two or three blocks,) should be borne exclusively by the United States on that side of the street upon which the property lies and out as far as the westerly side of the railway track in the center; and so of the park spaces, which are public grounds and which the private holders of property along the street should no more be compelled to keep in order than the property-holders on other streets, leaving then the private property-holders to bear their one-third of the expense of paving the body of the street in front of their respective properties. This amendment of course very much reduces their contribution toward the expense.

Mr. RANDOLPH. Will the Senator allow me?

Mr. MORTON. I believe I have the floor.

The PRESIDING OFFICER. The Senator from Indiana is entitled to the floor.

Mr. BAYARD. I was not aware that I was interrupting the Senator.

Mr. MORTON. I yielded willingly.

Mr. BAYARD. I have gone on unconsciously. I believe I have said all that I need say at present in explanation of the amendment I mean to propose.

Mr. MORTON. Mr. President, the question to which I desire to call the attention of the Senate in connection with the payment for this pavement is this: The bill provides that, after putting the part paved by the railway company out of consideration, the holders of the property on the Avenue shall pay one-third of the expenses, the District of Columbia shall pay one-third, and the United States one-third. Now, the question is, what is the measure of justice to the people of the District of Columbia living off this avenue? I do not understand that under the law the United States pay for the repair of any streets except the avenues. The District of Columbia has to pay for them, or the people living on those streets have to pay for those pavements. I am told by the Senator in charge of this bill that the District pays one-third for the repair of all streets; or the Senator from Louisiana, I believe, stated that in regard to the rest of the streets, leaving out the avenues, the District pays one-third of the expenses of repairing them.

Mr. EDMUNDS. It pays for all repairs, I suppose.

Mr. MORTON. I mean the building of a pavement where an old one has been taken up and a new one is to be put down.

Mr. WEST. I can only say to the Senator that in respect to one locality in this city—and I believe the principle applies to all—the property adjacent to the line of improvement is assessed one-third of the expenses, each side of the street paying one-sixth, being one-third of the whole, and the other two-thirds come out of the general fund of the District; that is, the taxable property of the whole District pays two-thirds of the expense of improving any street and the property on the line of the street pays the other third.

Mr. MORTON. I understood the Senator a while ago to say that the District paid one-third.

Mr. ALLISON. I think I can explain that to the Senator, if he will allow me. Under the law of the District the District proper pays two-thirds of the expense, and one-third of the expense is paid, as stated by the Senator from Louisiana, by the abutting property-holders. But in reference to this particular bill I think it is hardly fair to say that one-third of the whole expense is paid by the District, because it provides that this third shall be paid out of the general fund; and the Congress of the United States is in the habit of contributing to this fund. We contributed, for instance, last year $1,000,000, which was thrown into this general fund for specific purposes. No portion of this third can be paid out of this general fund unless the fund is provided. I do not see how this fund is to be provided for, unless first by appropriation, and second by special taxes for repairs or for improvements. There is no fund now out of which repairs of streets can be paid. The board of District commissioners, as the Senate will remember, have paid these repairs thus far out of the 3.65 bonds; but those are gone, and there is no fund. So that taxation will necessarily follow for the payment of this.

Mr. DORSEY. I understand that there is a fund of $400,000 or $500,000 that they are authorized by law to pay it out of.

Mr. ALLISON. Those moneys have been specifically appropriated, and they cannot pay, I understand, for the repairs of streets out of that fund.

Mr. DORSEY. We can authorize them to do it. This bill authorizes them to do it.

Mr. ALLISON. Out of any general fund. Therefore of course they will pay out of appropriations and out of taxation.

Mr. DORSEY. We authorize them to pay out of any money in the treasury of the District.

Mr. ALLISON. Undoubtedly; but how is that money in the Treasury? First, by appropriations from Congress and, second, by taxation.

Mr. DORSEY. By taxation, certainly.

Mr. ALLISON. Therefore I say it is hardly fair to assert that the people of this District pay one-third of the cost, because Congress contributes a portion by appropriation.

Mr. DORSEY. Last year we appropriated to this District $1,050,000 in one lump, and I think the appropriations altogether were something like $1,600,000 for different purposes. This general fund is made up largely of appropriations made by Congress.

Mr. ALLISON. That was the point to which I wished to call the attention of the Senator from Indiana.

Mr. HARVEY. The pending amendment, I believe, has relation to the question of restricting the board to the choice of material for pavement; and, such being the case, I wish to say a word upon that question.

I agree with the Senator from Indiana that on this question we must consult the teachings of experience. Carlyle says that experience charges higher wages than any other teacher, but that the knowledge thus gained, if remembered, is worth its cost. I think it is perfectly true, and it so happens that in this matter we have some experience. I learned during the discussion of this question the other day, from the speech of the Senator from California, that when this Avenue was last paved the choice of the material was made by a commission consisting of the Secretary of the Interior at that time, the then mayor of the city of Washington, and a distinguished engineer, and I further learned that this commission, being left unrestricted in choice, made the choice of wood. The experience has certainly been such as to prove that in this climate, with the materials at hand, such pavement is not suitable. Therefore I think the committee perfectly justifiable in reporting a bill excluding wood from the consideration of this board.

Before I heard the speech of the Senator from California, I had the impression that the paving of the Avenue was done under the direction of the board of aldermen or corporation of the city of Washington, and that it was probably the original of the story which reports that a certain member of a board of aldermen suggested to his brethren that they lay their heads together and make a wooden pavement. [Laughter.] I think that in view of the experience resulting from the use of wood upon that Avenue a board who would now take such a course would show that, though making a great personal sacrifice, it would be somewhat of the nature of the gentleman who took part in a civil war in Scotland a number of years ago, and as a consequence lost his head. An old lady speaking of the circumstance said that, to be sure it was no great head, but it was a sore loss to him.

I think that in view of this experience Congress would be justified in placing it beyond the power of anybody to make such a sacrifice, inasmuch as it would result in no public good. I do not think that the gentlemen who compose the board would do such a thing. I know none of them personally, but I know something of their reputation as engineers. I do not believe they would make use of wood in any portion of the work of paving the Avenue; but I do insist that the committee, in view of the experience of the last paving of the Avenue, is justified certainly in excluding the use of wood for that purpose in this climate.

I think also that the committee are justified in suggesting an amendment to exclude cobble-stone from being used and also rectangular blocks of stone, especially if they should be of such a character of stone that the surface would be so smooth as to result in making the streets so slippery that horses in icy weather would find it impossible to stand up. I think there is a good deal of force in the ground taken by the Senator from Illinois and the Senator from Massachusetts in

urging that probably cobble-stone for the pavement of that particular portion of the Avenue between the railroad tracks is as good a material as can be used. It is well known that if the street cars are stopped upon an incline they are very hard to set in motion again by the exertion of the horses, and that would be almost impossible at times upon a smooth stone pavement. There may be some better material than either smooth surface stone or cobble-stone, but I think it would subject us to the criticism of the members of the Society for the Prevention of Cruelty to Animals if we should compel the use of such material as would make it impossible for the horses to get a footing in order to set the cars in motion.

I do not agree that we should entirely exclude the commission from the use of stone of any kind. I think they should be allowed to make use of any kind or quality of stone that might be necessary to form a foundation to the pavement. With these limitations, I would be perfectly willing to vote for the bill substantially as reported by the committee.

Mr. WHYTE. Mr. President, the question as it now stands before the Senate, I understand to be on the amendment moved by the Senator from Rhode Island, to insert in the seventh line of the first section of the bill the words "or block or cobble stones," and I have moved to strike out the words "or block" in that amendment, so as to leave it stand "or cobble-stone;" thus excluding from the consideration of the commission about to be appointed any cobble-stone pavement, but leaving it open to the commission to select any other stone, if, in their judgment, they come to the conclusion that a stone pavement is better for Pennsylvania avenue than any other sort of pavement.

Having some experience upon this subject, I am willing to vote for the bill excluding wood pavement and a cobble-stone pavement, so far as the pavement between the railroad tracks and the curb-stone is concerned, leaving the question to come up hereafter on the third section of the bill as to the character of the stone which shall be used for paving inside the railroad tracks and for two feet on either side.

If you do not leave within the range of selection by the commission some sort of stone, you confine them either to an asphalt pavement or a concrete pavement. We ought not to shut our eyes to the experience of those in whose charge this subject has been in the District of Columbia for some years past. We ought to pay, it occurs to me, some attention to the recommendation, or at least to the experience, of the engineer who has been in charge of these public highways during the last few years. In regard to concrete pavements, he has stated in the report lying upon our table that, as a general thing, they have been utterly worthless. After showing the character of the wood pavement in the District, in the report of the commissioners of the District of Columbia, on page 234, the engineer speaks of the condition of the concrete pavements thus:

> The condition of the defective concrete pavements was equally alarming.

Therefore they were in as bad a condition as the wood pavements in the District—

> The upper or wearing surface disappearing rapidly, exposed the foundation of the pavement to destruction, and each day's delay increased the cost of repair.

And they had to go to considerable expense to repair these utterly worthless pavements. Then of the Neuchâtel pavement—which is an asphalt pavement, I suppose—he says:

> The Neuchâtel pavement has been down one year and eleven months and has not yet required any repairs whatever, except over sunken excavations, for which the pavement was in no way responsible. It has not been severely tried.

Therefore, it has not been upon an avenue like Pennsylvania avenue, where the stores mostly are located, which is traveled by shoppers and persons engaged in trade probably more than any other of the avenues in the city:

> It has not been severely tried, as its slippery surface causes it to be shunned by regular travel; but, if this defect can be remedied, the pavement should rank as first class.

That is the only concrete pavement in the city of which he really speaks well. That pavement has not been tried severely because drivers avoid it on account of its slippery character and go somewhere else.

Mr. DORSEY. I should like to inquire of the Senator whether there is any other asphaltum pavement in the District except that to which the engineer refers?

Mr. WHYTE. He refers to the Grahamite pavement in New York, which has been laid somewhere in the District by the owners of the patent, but which has not been sufficiently tried. I would like to know what is left to an engineer if you exclude stone of every character. With the experience we have had with the worthless concrete pavement in this city, you are left to the Neuchâtel pavement or the Grahamite pavement as the only two to select from.

In regard to the Neuchâtel pavement, the engineer says distinctly that you cannot use it because of its slippery character until some mode has been devised which will rid it of that element of defect. You cannot use it, because drivers avoid it. Are you going to lay upon Pennsylvania avenue, a public highway like that, a pavement that drivers avoid rather than seek? The Grahamite pavement has been tested on Fifth avenue, New York, for three years. It has done pretty well there, but has not been tested in this city. Washington City in regard to an asphaltum pavement is a very different place from the city of New York. I have seen these pavements both in America and on the continent of Europe. I have walked upon them in the heat and found my feet giving way under me. I do not believe that experience can show the use of a pavement in such a climate as this made of asphalt that will wear any time at all. The difficulty is that our extreme heat affects it, and the result is that the pavement becomes soft and utterly useless. We have had it in Baltimore, where our climate is very nearly the same as in the city of Washington, and it is a perfect failure there, a disgrace to the people who have laid it on our public streets. I think that now when we are about to undertake the pavement of this street again, charging the people living on or using stores upon each side of the Avenue with a heavy item of the cost in relaying the pavement, and charging the whole people of the United States with a third of it, we ought to give them a pavement that will be durable in its character and at the same time be neither dangerous because too slippery nor likely to require relaying or mending or "poulticing," as they call it, in a short space of time.

Let us give this commission, if you are going to put it in the hands of a commission of intelligent gentlemen at all, an opportunity of selecting from the general character of pavements laid throughout this country, excluding only what our own experience has demonstrated to be utterly worthless, that is, wood pavements, and cobble-stones, if you please, as being out of fashion in this day. Let us exclude only those, leaving a wide range of selection to such an intelligent commission. Then, when we expend the public money in laying a durable valuable pavement, we shall feel that we have discharged our duty to our constituents.

Mr. ALLISON. I only desire to say a word. The motion is to strike out the words "or block." I shall vote for that amendment and I shall vote for every amendment which proposes to leave this matter to the discretion of the commissioners. This bill presents to us three of the most eminent engineers in this country, who are to execute the simple business of paving Pennsylvania avenue. The Senator in charge of this bill tells us that two of these commissioners are men who have made a specialty of the study of proper pavements and that one of them has written a work upon the subject. After calling these eminent engineers, generals in the Army of the United States, to this service of putting in a mile of pavement on Pennsylvania avenue and leaving to them the discretion of selecting the material, we say to them that they shall only select a single material, because no Senator can say that this commission is likely to accept any material except concrete, either the naked bitumen called Neufchâtel or some patent imitation of this naked material. The Senator from Indiana tells us that his experience is that this is the only proper pavement. If that be so, why select three brigadier-generals in the United States Army to decide?

Mr. CONKLING. May I ask the Senator a question? Shall I understand him to say, and does he mean to say, deliberately, that when you have told these men they must not make either a block or a cobble-stone pavement you have left only one pavement for them to make? Does the Senator mean that?

Mr. ALLISON. I mean that practically that is the effect of the exclusion.

Mr. CONKLING. Then practically there is no way to pave a street except to make a cobble-stone pavement, or a block-stone pavement, or an asphalt pavement.

Mr. WEST. Or wood.

Mr. CONKLING. A wood pavement is out of the question. That is what the Senator means to infer.

Mr. ALLISON. I will answer the Senator. This bill requires these three brigadier-generals to constitute a commission to select and determine the best kind of pavement, but they are to be limited to one character of pavement. Every Senator who has discussed this question, and almost every one who has had practical experience on the subject of paving, admits that if you exclude wood and stone you must necessarily be confined to that character of pavement called concrete. You can make a Macadam pavement, even with these insertions, I admit, which is broken stone mixed with other materials, and I am not certain but that that would be the very best pavement we could lay down on Pennsylvania avenue, and sprinkle it every day of the year. I think it would be the most economical pavement. What I want to do in this matter is, if we are to have three brigadier-generals of the Army of the United States to conduct the business of selecting the material and laying down the pavement that these gentlemen shall have something to do besides supervising the laborers upon the Avenue who shall lay down these blocks of stone or spread over this asphalt or concrete or whatever it may be. I submit to Senators that it is rather a small business to call in a board of eminent engineers, and brigadier-generals, and major-generals to lay down a pavement on Pennsylvania avenue unless we also give to them as experts some discretion as to the best pavement to be put down.

Mr. CONKLING. I think I discover that the difficulty with my friend is not as to the pavement but as to the commissioners.

Mr. ALLISON. No, sir; I am in favor of the commissioners.

Mr. CONKLING. My impression is that he would be relieved in his mind if we should take three high privates and not call upon these eminent brigadier-generals, of whom he reminds us so often, to swoop down from their lofty eminence and consider the matter of a pavement. I think we had better amend the bill by beginning there, in my friend's view.

Mr. ALLISON. The Senator desires to be facetious. I should quite agree with him if there was nothing else to do except to lay down a good pavement of material fixed and arranged in advance, and that is practically what is done here. Senators tell us that the concrete pavement is the only one that can be laid down here if you exclude wood and stone. If that be true, then why not let the engineer of the District of Columbia see to it that the pavement is properly laid, and not call together, if the Senator will pardon me again, these distinguished officers of the Army, requiring them to leave their stations and posts and come here for the purpose of superintending the laying of a pavement on Pennsylvania avenue.

Mr. DORSEY. I venture to remind the Senator from Iowa of the fact that there are thirty or forty different kinds of concrete and asphaltum pavements, different patents, out of which we desire this commission to select some suitable material.

Mr. ALLISON. I am aware of that; and the engineer in charge, Lieutenant Hoxie, who is a graduate of West Point, and also a member of the Corps of Engineers, tells us that every one of those patents is worthless. He makes the statement in the volume that I hold in my hand. That is the evidence of the engineer.

Mr. MORTON. There are several streets in this city paved with concrete (I do not know whether it is the kind the engineer mentions) in which the pavements are nearly perfect. They are unbroken; they are smooth. They have been down for several years, and they appear to be scarcely worn at all. I would say, notwithstanding the report of any single or any dozen engineers, riding over these pavements and looking at them myself, that they are a success; and no report can convince me to the contrary.

Mr. CONKLING. Is the gentleman a brigadier-general who makes that report?

Mr. ALLISON. I have an Army Register here; and I will pass it over to the Senator from New York, and he can examine it. I think he is a lieutenant.

Mr. CONKLING. If he is not a brigadier-general I do not want it.

Mr. ALLISON. He was designated by the President as an engineer to take charge of the streets and alleys of this city.

What I submit to Senators is this: that if we are to relegate to this board the question of the material to be used we should not so restrict them as that they shall be confined to one class of material. That is all I have to say on this subject. Therefore I shall vote for the amendment proposed by the Senator from Maryland to the amendment; and I shall vote against the amendment of the Senator from Rhode Island. I have faith that these engineers will select a good pavement.

Mr. MORTON. I see no objection to the selection of this board. The experiment with pavements in this city has been valuable for one thing if for no other. It has determined the proper kind of pavement to be built. The different patents have been tried. Wood has been tried in different ways, and concrete, and all that. The stone pavement was tried. It appears to me by an inspection of the pavements in this town, taking those that are perfect, or nearly so, and inquiring of what material they are made and how they are constructed, that this board will not have a very difficult job. Concrete pavements have been greatly improved in this country in the last fifteen years. They have been improving them from year to year. They did not know how to make them at first. When they first laid them down in New York they were failures, and were called "poultice" pavements; they became soft in the summer-time, as was stated by the Senator from Maryland; but they now construct them so that they are hard in the summer time, a horse's foot making but little impression upon them, and they do not stick to the wheel at all. Great improvements have been made and they have been brought nearly to perfection. It seems to me that there is no trouble in determining the proper pavement to be put down, and I should be perfectly willing to make a positive provision in this bill that it should be a concrete pavement.

Mr. WEST. I think, if we admit that the wooden pavements in this city are a failure and that only so much of the pavements of Washington as are laid down with wood are a failure, we shall have to acknowledge that the remaining pavement is the best pavement in the United States. There is no city in the United States, at least none within my experience that I have visited, where the streets are as well paved, with the exception of wood, as those in Washington. The proposition that we have now before us simply confines this commission to the selection of a concrete pavement. If you exclude wood and if you exclude cobble-stone and block stone, you are really brought down to a concrete pavement. I do not think that the Macadam can be considered a stone pavement. It may be considered as stone at first, but it is not really so; it does not last very long. I myself would be in favor of confining this commission to the selection of a concrete pavement. I think the experience in Washington, contrasted with other cities, bears out that proposition as being the best for the interest of all parties concerned.

As this debate, however, has been general with reference to the policy that should be pursued, I will touch upon one subject, and that is the distribution of cost. The Senator from Delaware deprecated, and very properly too, that the individual property upon the line of this street should be subjected to such an extraordinary and burdensome taxation as he illustrated, but he will bear in mind that this is a different proposition, and that the taxation must be proportionately very much less. This is not a proposition to tax the property per running foot. It is a proposition to do one grand job of work from the gate of the Capitol to the crossing of Fifteenth street. Assuming that the cost of that work will be, in round numbers, $300,000—and that is an approximate estimate—that cost will be divided into three separate sums, deducting, first, the amount that will be expended by the railroad company. Assuming that we have $300,000 to pay for the work, $100,000 of that is to be assessed upon all the private property lying along the line, not per foot for the work done in front of it, but per foot throughout the whole length. The next third is to be assessed upon the general property of the city, and the last and final third the Government of the United States will pay for. Looking at the diagram which the Senator presented, it will be seen that that proposition is not equitable; that the charge to the Government of the United States really exceeds its interest; that the Government of the United States does not own one-third of the property upon that line, and that private individuals own more than one-third, but pay less than a third. Furthermore, with reference to the amount that is to be charged to the property-holders, it is not as onerous as it was when the original pavement was laid down. The original law provided that the property-holders should pay for the paving from the curb to within two feet of the line of the railroad. According to the proposition now, after deducting twenty feet from the center you have one hundred feet to provide for, and the property-holders will pay for thirty-three feet. Therefore the assessment will be less upon them.

Coming back to the proposition of the railroad companies in accordance with the circular that is laid upon our tables here to-day, I should be very loath to do those companies an injustice. I should be very loath to so stipulate in the law that a certain kind of pavement should be provided that would be detrimental to the railroad companies or injurious to their horses; but I look for the motive. I look for the conviction and the reason of the conviction upon the minds of these railroad companies that cobble-stones are the best. I find that this idea originated probably in this way: When we laid down the wood pavement we agreed that the company should select their material. Their material was selected, when the offer was made. They had cobble-stones there, and they were willing to adopt that because they had it, and were saved the expense of getting any other material. Hence their zeal in behalf of cobble-stones now. They have them now; but we must ask ourselves the question whether the interest of the railroad company alone is to be consulted or whether or not the public convenience has something to do with it. I think if Senators will reflect a moment they will find that the horses of the railroad company travel the tracks on Pennsylvania avenue as little as the horses of individuals. To be sure, those horses follow a beaten track, and at the present moment the travel on Pennsylvania avenue may not be so great in consequence of the imperfect condition of the roadways on either side; but you will find that a market-man's carriage, an omnibus, and everybody else's vehicle traverses those tracks. They are as much interested in having proper tracks and they are more interested in having a good pavement than the railroad company, because the railroad company's cars have smooth and level iron to travel on, whereas the individual's carriage has to travel over the cobble-stones and is affected by it. Therefore the pavement of the tracks will be not only for the convenience of the railroad company but of the general public, who will use those tracks, in my opinion, quite as much as the railroad company.

Furthermore, I think the proposition made by the company, and supported here on the floor of the Senate by some Senators who accede to their views, that cobble-stones are the best material for the railroad tracks, is scarcely borne out by the facts. They are more economical because they are right here within this District. There have been laid down miles upon miles of railroad track in the city of Washington within the last two or three years where the railroad companies, I believe without any compulsion whatever, without any requisite of law compelling them to do so, have voluntarily put down rectangular blocks. I do not know the name of the little road with the yellow cars that runs right along the foot of Capitol Hill. At all events Senators will recognize what I refer to when I say that it is the road that has been put in operation within the last eighteen months. I think its track is of rectangular blocks throughout. We should not be carried away by the proposition of the railroad company upon the supposition that cobble-stones are entirely the best, because, although those cobble-stones are to be used perhaps by the railroad horses, and may be some benefit to them, there are other horses that travel there which require the same advantages, and also the vehicles of private individuals, be they engaged in trade, convenience, or pleasure. They are subjected to travel over a road that shackles them and tears them to pieces. Cobble-stones being an obsolete idea in almost every city in the Union that is adopting new improvements, why should we not discontinue their use here? We should scrutinize whether this company is exactly correct in its proposition, because we know that that proposition is actuated altogether by its own interest.

But, coming back to the amendment that has been offered, it is tantamount to confining this commission to the selection of concrete pavement. That is what it will accomplish, express it as you will, either by the words of the Senator from Rhode Island or by the more direct and terse expression of the Senator from Indiana. Pass the

bill in that way, and we shall have a concrete pavement; and that is what, in my judgment, you want; and I am ready to vote for the amendment.

The PRESIDING OFFICER, (Mr. SARGENT in the chair.) The question is on the amendment of the Senator from Maryland [Mr. WHYTE] to the amendment of the Senator from Rhode Island, [Mr. BURNSIDE,] which will be reported.

The CHIEF CLERK. The amendment is to insert after the word "wood," in line 7 of section 1, the words "or cobble or block stone." The amendment to the amendment is to strike out the words "or block;" so that if the amendment as proposed to be amended is agreed to the bill will read:

A commission to select and determine the best kind of pavement other than wood or cobble-stone to be used in paving Pennsylvania avenue.

Mr. CONKLING. That is an invitation to make it out of stone.

Mr. EDMUNDS. It is an indication we do not want to interfere with their judgment. If we are going to have a commission to decide anything we ought to leave them something to decide.

The question being put, a division was called for; and the ayes were 19 and the noes 14; no quorum voting.

Mr. INGALLS. I think we had better have the yeas and nays on this proposition.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 13; as follows:

YEAS—Messrs. Allison, Bayard, Bogy, Cameron of Wisconsin, Cockrell, Davis, Dennis, Edmunds, Gordon, Hamilton, Hamlin, Howe, Jones of Florida, Kernan, Logan, McCreery, McMillan, Norwood, Oglesby, Randolph, Ransom, Saulsbury, Sherman, Stevenson, West, Whyte, and Withers—27.

NAYS—Messrs. Boutwell, Clayton, Conkling, Cragin, Dorsey, Ferry, Harvey, Ingalls, Key, Merrimon, Morrill of Vermont, Sargent, and Windom—13.

ABSENT—Messrs. Alcorn, Anthony, Booth, Bruce, Burnside, Cameron of Pennsylvania, Caperton, Christiancy, Conover, Cooper, Dawes, Eaton, English, Frelinghuysen, Goldthwaite, Hitchcock, Johnston, Jones of Nevada, Kelly, McDonald, Maxey, Mitchell, Morrill of Maine, Morton, Paddock, Patterson, Robertson, Sharon, Spencer, Thurman, Wadleigh, Wallace, and Wright—33.

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Rhode Island as amended.

Mr. INGALLS. It appears to me that the result of the vote that has just been taken, unless it is in some way explained, will be to indicate to the commission appointed by this bill that a majority of the Senate prefer that the Avenue shall be paved with block stone.

Mr. EDMUNDS. What ground has the Senator for saying that?

Mr. INGALLS. Simply because the whole debate has turned upon that point. The Senate has been asked to discriminate between different varieties of stone, and has by this vote, in my judgment, expressed a preference in favor of block stone for the Avenue. It appears to me it would be a great deal better, rather than to leave that impression upon the minds of the commission or admit the possibility of its being made upon them, that all restriction should be removed and that the commission should be left entirely at liberty to select whatever material they may see fit to employ for the purpose of paving the Avenue.

Mr. LOGAN. If the Senator will allow me, I can state to him upon what principle I voted for the amendment to the amendment. I voted for it upon the ground that I think the commission we select are honest, capable, sensible men, and that they will select the best material without any reference at all to my preference of material. That is the reason why I voted for the amendment.

Mr. INGALLS. I was not inquiring what reason the Senator had for voting. He is responsible to himself, and, like all the rest of us, is undoubtedly able to sustain his own view. The commission appointed by this act are the agents and servants of Congress, and we have as much right to instruct them in regard to the material they shall employ in carrying out the provisions of this bill as any private individual has to instruct his agent what material shall be employed in the construction of any edifice he may desire to have built. I believe if it were left to a vote of the members of this body, every member would vote to exclude the use of wood. I believe also that every Senator would be as explicitly opposed to the employment of cobble-stone, and that there is not a single member of this body who would vote to use either the Belgian or any other form of rectangular-block stone for paving the Avenue. If that is the case, what conceivable objection is there to an expression of opinion on the part of the Senate and a consequent instruction to our agents as to what we prefer they shall do? I submit that inasmuch as a discrimination has certainly been intimated, if not expressed, by the vote just taken, it would be a great deal wiser, as the Senator from Illinois suggests, to remove all restrictions and leave this commission entirely free to select whatever material they see fit.

Mr. HAMLIN. I wish to state in a word that I voted for the amendment which has been adopted because I believe the commission named in this bill are vastly better qualified than I am to determine what is the best material with which to pave the Avenue. I confess my ignorance. There are other Senators a great deal wiser than myself; but they tell me these gentlemen are eminent engineers. I think I know enough of some of them to indorse that statement, and I know that their opinion is infinitely better than mine. I would prefer to vote for the bill without the slightest restriction in the world; but if I cannot have a bill without any restriction, then I will vote for a bill that has out of it all the restrictions that I can get out.

Mr. KERNAN. I can only say, what has been already so very well said by the Senator from Maine. I voted to strike out those words. The suggestion was made, when the bill was up before, that these men were well qualified to decide upon this work and that we should leave them without restriction as to the material they should use. While I have the greatest respect for the learning of the Senate, I have sat here all day and heard them discuss what was the best for horses to stand on, pull on, and go on, and I have become very well satisfied that we had better leave it to some other body to decide what shall be the material rather than this body.

Mr. LOGAN. In voting a moment ago upon the amendment to the amendment, the fact had slipped out of my mind that I had paired yesterday evening with the Senator from New Jersey [Mr. FRELINGHUYSEN] on the passage of this bill. There was nothing said about the vote on amendments; but he, not being here, might think the pair included all amendments. I should like to have permission of the Senate, on that account, to withdraw my vote.

Mr. RANDOLPH. I move that the Senator have permission to withdraw his vote.

Mr. LOGAN. I do not know how he would stand on the proposition which has just been passed upon. I did not remember until just this moment that he told me he desired to pair on the passage of the bill.

Mr. EDMUNDS. That is all he meant.

Mr. LOGAN. There was nothing said about amendments to the bill; but I prefer to withdraw my vote, for fear that he might not agree with me on the proposition which has just been adopted by the Senate.

The PRESIDING OFFICER. Is there leave given to the Senator from Illinois to withdraw his vote on the amendment to the amendment?

Mr. EDMUNDS. As a matter of principle, after the result of a vote has been declared, that is not allowable. It might be very important sometimes; in this instance it is no matter, because it is merely on an amendment, which does not amount to a great deal; but the principle of withdrawing a vote after it is declared might raise some difficulty. The safest plan would be for the Senator to get a reconsideration, and then when the question is put again refrain from voting. I feel very sure that the common understanding always is when a pair is confined to the passage of a measure that it does not apply, and is not understood to apply, to amendments at all; and I have the impression on this particular point that the Senator from New Jersey would have voted exactly as the Senator from Illinois has done.

Mr. LOGAN. I will state to the Senator that I merely desired to make this explanation, so that the Senator from New Jersey would not feel that I was violating my pair. It did not occur to me until a moment ago that I had paired with him.

The PRESIDING OFFICER. The vote can be withdrawn by unanimous consent.

Mr. RANDOLPH. The Senator from Vermont says that the pair is not regarded as applying to an amendment, but to the vote on the final passage of a bill. Suppose there should be an amendment to strike out all after the enacting clause, changing the whole character of the bill?

Mr. EDMUNDS. We will decide that question when it arises.

Mr. RANDOLPH. I am speaking of it now as a matter that might govern us hereafter. The Senator himself raised the question by his statement that a pair applies only to the final vote.

Mr. EDMUNDS. The amendment to the amendment was agreed to by such a large vote that I do not know that it is material; but the Senator from Illinois has already made an explanat ion of the circumstance.

The PRESIDING OFFICER. Does the Senator from Illinois insist upon his request to withdraw his vote?

Mr. LOGAN. In order not to set a precedent and as there was such a large vote, after what has been said I will not persist in the request.

Mr. EDMUNDS. Mr. President, I am not going to bother the Senate to state the grounds upon which I voted in favor of the amendment that has been adopted; but I want to state that this bill starts out on the declaration and rests upon the principle that we are to appoint a commission of skillful, philosophic, and learned men, in whose capacity and integrity we confide, to select the best kind of a pavement for this avenue; and then we go along and say that they shall have no powers to do the thing that we have constituted them a commission to do; that they shall not select anything except one particular thing, one particular corner into which we drive them. There is no judgment or discretion left to them except to turn themselves to asphalt and inquire whether they will take, as the board of public works did, a slight mixture of coal-oil and broken brick, and a little bit of calcareous sand that will dissolve in rain, or whether they will take Neuchâtel or whatever it may be.

All these amendments in respect of confining their jurisdiction are in violation of the principle upon which the bill is founded. If you are not going to leave it to this body of gentlemen to determine, with their skill and experience and opportunities of inquiry and investigation, to exercise their judgment over the whole thing, then there is no need—indeed it would be almost disrespectful to do it—to ask these three eminent and high officers of the Army to devote themselves to

the mere mechanics of laying a particular kind of pavement. You can get it done a great deal cheaper and with a great deal less fuss by employing John Smith or Tom Jones, or whoever it may be, to do it. I do not think the Senator from Kansas has any right to infer, because we refuse to cripple their discretion, that we are thereby declaring on the other hand that they shall exercise their discretion in a particular way. No such inference can be drawn from the vote that has been taken.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island, [Mr. BURNSIDE,] as amended.

Mr. EDMUNDS. Let the amendment be reported as it now stands.

The CHIEF CLERK. It is proposed to insert after the word "wood," in line 7 of section 1, the words "or cobble-stone;" so that if amended it will read:

To select and determine the best kind of pavement, other than wood or cobble-stone.

Mr. EDMUNDS. I would just as lief it should be rejected.

Mr. OGLESBY. If the amendment is adopted, of course it excludes cobble-stone. Wood is already excluded. I shall vote against the amendment, although I voted to amend it before. My object ultimately was to vote against this amendment. If we vote this amendment down, nothing will be in the exclusion except wood; and I think we can probably get that out finally, and then pass the bill.

The amendment was rejected.

Mr. DORSEY. I move to strike out the words "other than wood," in line 7, after "pavement;" so that, if amended, it will read:

To select and determine the best kind of pavement to be used in paving Pennsylvania avenue.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I move to insert in line 6, of the third section, after the word "thereof," the words "and of keeping the same in repair." Of course these railroads ought to be made to keep the track that they pave in repair. I believe that they are all now required so to do.

Mr. MORRILL, of Maine. I was going to make that suggestion to the Senator. They are still under the obligation of the law to do that.

Mr. MORRILL, of Vermont. I do not know that they would be after passing this bill. I think out of abundant caution the words ought to be inserted.

Mr. DORSEY. If the Senator will allow me I will say that the charter of the railway company, under which they are now operating, requires them to keep this pavement in repair.

Mr. MORRILL, of Vermont. Yes; but this is to be a subsequent law, and there certainly can be no objection to the amendment.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. In section 3, line 6, after the word "thereof," it is proposed to insert "and of keeping the same in repair;" so as to read:

The Washington and Georgetown Railroad Company shall bear all of the expense for that portion of the work lying between the tracks of their road, and for distances of two feet from the track on each side thereof, and of keeping the same in repair.

The amendment was agreed to.

Mr. MORRILL, of Vermont. Now, Mr. President, it occurs to me after the action of the Senate that this commission ought to be trusted with the kind of pavement that is put down by this railroad company, and that they ought to put it down themselves, and not wait for the company to do it, and have one part of the pavement on the Avenue completed and another not. We have had considerable difficulty, not in the last two or three years, but some years ago, with even this road in relation to keeping the part that they are obligated to keep under their charters in repair, in compelling them to do so. Now on Ninth street, where we have a concrete pavement, there are two tracks with four rails, and there is a gutter on each side of each rail from one end of the street to the other, making it almost impassable.

I think, therefore, that it would be better to strike out all after the words of the last amendment down to and including all of the proviso in the eleventh line ending with the word "commission." I move to strike out from the sixth line, at the end of the amendment just adopted, all of the words, including the proviso, down to line 11, including the word "commission."

The PRESIDING OFFICER. The words proposed to be stricken out will be read.

The CHIEF CLERK. In section 3, commencing in line 6, it is proposed to strike out:

Which shall be paved with rectangular blocks of stone, to be approved by the commission herein named: *Provided*, That the said railroad company may pave the space between their tracks as above set forth under the supervision of said commission.

Mr. DORSEY. I make no objection to the amendment.

The amendment was agreed to.

Mr. WHYTE. I desire now to offer this amendment, to come in after the word "then," in the fifth line of the second section:

They shall then invite proposals for such work by advertisements published in such cities as the said commissioners may deem advisable, at least two weeks in advance of the time fixed for the opening of the bids.

My object is to enable everybody who is in the habit of laying pavements to offer a bid of any sort of pavement to this commission, giving them an opportunity of examining the process and then determining, after they have all this information, as to the kind of pavement they will select.

Mr. INGALLS. The result of that amendment, if adopted, would of course be to defer the completion of this work for at least the period named in the amendment. It is now nearly the middle of April. The centennial exposition will open I believe about the 10th of May, and from that period until the close of that exhibition this Avenue probably will be seen by more people from more sections of the world and by men of more nationalities than it ever has been seen by before or probably will be for some time thereafter. It is at the present time in a condition that is alike dangerous to property and disgraceful to our civilization, and I respectfully submit to the Senator from Maryland that if this work is to be done, the sooner it is done the better.

If it were done, when 'tis done, then 'twere well
It were done quickly.

And inasmuch as the information that is sought to be obtained by this advertisement is all readily accessible, as the gentlemen named in this commission are skilled and experienced engineers and familiar with the work to be done and the material to be employed, I would submit that the time proposed is certainly unnecessary and would be detrimental to the public interest. I hope the Senator from Maryland will not insist on this amendment, because, at the best, using the utmost celerity that can be employed by this commission under the terms of this bill, it will be almost impossible to have the work accomplished before the 1st of August, and to insert the time for advertisement that is named in the amendment would defer the completion of it until some time late in the fall.

Mr. WHYTE. The time is only two weeks.

Mr. INGALLS. Six weeks, I understood.

Mr. WHYTE. Two weeks. It cannot possibly interfere with the completion of the work. It gives the opportunity to everybody to bid. If this should be adopted, I propose to offer an amendment afterward that the lowest responsible bidder shall have the work.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maryland.

The question being put, there were on a division—ayes 16, noes 13; no quorum voting.

Mr. EDMUNDS. I ask the Chair to count the Senate, and see if there is a quorum here.

The PRESIDING OFFICER counted the Senate, and declared that a quorum was present.

Mr. EDMUNDS. I wish to say a word upon this amendment. I have voted against it, because I think it goes in the wrong direction. Here we have selected a board of three of the most eminent engineer officers in our service to do the best thing in respect of putting down a pavement. The second section as it stands requires them to contract, but without requiring any special notice, for doing this work, which implies on the face of it one solid contract for the whole work with one contractor. That is the fair meaning of the words. Perhaps they might possibly be twisted into something else, but that is the first impression which strikes one. Now, I may be entirely wrong, but it appears to me that the best interest of the United States, and of the people of this city, is to give these gentlemen authority, if they choose on looking it over to exercise it, not to make any contract at all in the sense of what is usually understood by a contract, but to employ days' work, to buy their material, and superintend the putting of it down themselves; and if we are to amend at all, as I rather think we ought, I should be in favor of inserting a clause which would give them the authority I have named, either to do it by contract or to do it under their own supervision and direction by the purchase of material and the hiring of laborers to do it; so that they will have the whole responsibility of judging of the nature of the pavement, and of every step in respect of economy and perfectness of the work in the progress of its being carried on. In that way I am very sure we shall have a pavement that when it is once paid for will be worth the money that is given for it and will be of great value to the city. That is my ground for voting against this amendment, and I shall propose, if I get the opportunity, an amendment in the opposite direction, to leave the whole question to their discretion.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maryland.

Mr. SAULSBURY. I think the amendment is a very proper one. I am not at all certain that it may not be proper for the commission to build the road after ascertaining what it can be contracted for, in the mode proposed by the Senator from Vermont; but, in order to enable them to determine intelligently whether it will be cheaper and more economical to build it by supervising it themselves, it is proper that they should ascertain and be enabled to ascertain what it can be done by contract for. Then they will be enabled to determine whether they can, as a commission, build it in a better manner or more suitably or more economically than they can do it by contract. It only delays the matter for about two weeks; and if the amendment of the Senator from Maryland prevails, the commission will have in their possession sufficient knowledge of what it will cost to do it by contract, and they can make their own estimates and calculations as to the cost if it should not be done by contract but by the commissioners. I think, therefore, that the amendment of the Senator from Maryland is absolutely proper.

The Senator from Kansas objects because the Centennial is upon us. I apprehend the people who go to the Centennial are not coming to Washington City. But if the people from foreign countries should visit the capital they might carry home a knowledge to their own country that this wooden pavement on Pennsylvania avenue had shown its failure in the capital of the American Republic, and I am not certain but that it would be a good exhibition to make to the world to prove the entire failure of wooden pavements.

Mr. MORRILL, of Vermont. If the amendment of the Senator from Maryland should prevail, we make it as "fixed as fate and foreknowledge absolute" that some sneak will succeed in getting a contract that will give us a miserable kind of pavement. The only security we have is in the discretion of this commission that they are to examine and find out which is the best pavement, not which can be furnished the cheapest. If we allow it to be done under this system of bidding, of course the man who has the meanest pavement will be able to fasten it upon the commission; they will have no discretion about it at all. You might as well leave it to any other three persons as to leave it to these eminent scientific gentlemen. I am utterly opposed to having this work done by the job upon bids or anything of the kind, but wish to leave it entirely in the discretion of this commission.

Mr. DORSEY. I move that the Senate now proceed to the consideration of executive business.

Mr. INGALLS. I know the motion is not debatable, but we have no legislative session until Monday, and it appears to me that we might sit an hour longer and perhaps complete this bill.

The PRESIDING OFFICER. The motion is not debatable.

Mr. DORSEY. I withdraw the motion.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maryland, [Mr. WHYTE.]

The amendment was rejected; there being on a division—ayes 14, noes 25.

Mr. WHYTE. It may be very old fogyish in me to suppose that the position occupied under the Constitution by the President of the United States makes it more respectful for Congress to ask him to detail this commission, rather than for us to designate the commission ourselves and assign them to duty; but so believing, I offer this amendment:

Strike out beginning with the word "that" on the third line of section 1 down to "commission" in the sixth line, and insert:

That the President of the United States be, and he is hereby, requested to detail Brigadier-General A. A. Humphreys, Chief of Engineers, General H. G. Wright, General Q. A. Gillmore, of the Engineer Corps of the United States Army, to act as a commission, whose duty it shall be.

Mr. EDMUNDS. I think this is the first time in a statute that it has ever been proposed to request anybody to do anything by law. I move to strike out "requested" in the amendment and insert "directed."

Mr. WHYTE. I accept that amendment.

The PRESIDING OFFICER. The modification is accepted. The question is on the amendment of the Senator from Maryland as modified.

The amendment was agreed to.

Mr. EDMUNDS. I move to amend section 2, line 7, by inserting after the word "shall" the word "by," and inserting after the word "contract" the words "or otherwise provide;" so as to read:

They shall, by contract or otherwise, provide for the paving of said avenue.

The object of this, as I shall not have to rise again before the question is stated, is to leave it to the discretion of this board of engineers not to be obliged to make what is ordinarily understood as a contract.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont.

The amendment was agreed to.

Mr. INGALLS. It appears to me upon reflection that there is a defect in the second section, and that the commissioners of the District of Columbia ought to be the parties who should contract, if a contract is made, for the paving of the Avenue and the completion of the work. The bill in terms provides that the commissioners shall contract, and subsequently in the proviso that a good and sufficient bond shall be taken with sureties to be approved by the commission. That bond must run to some person or to some corporation, and it appears to me that the section should be amended to provide that this contract shall be made by the authorities of the District, and that the bond which is required in the proviso should be executed to the District of Columbia, in order that the parties in interest may have the right of action upon it.

Mr. EDMUNDS. You had better make it to the United States.

Mr. INGALLS. Or "to the United States of America," as the Senator from Vermont suggests. I have not had time to deliberate upon this, it having occurred to me but a few moments since in running over the section; but I would suggest whether it would not be best to amend by inserting after the word "used," in the seventh line, the words "to report to the commissioners of the District of Columbia, who shall by contract or otherwise provide," &c.

Mr. WEST. That would do if you made the bond to the District. If you made it to the United States, this commission would answer the purpose.

Mr. EDMUNDS. I think it might be implied that this bond would be to the authority under which the commission acts, the United States; but to guard against any possible doubt, if you insert after the word "bond," in line 11 of section 2, the words "to the United States," it will accomplish the purpose, I think.

Mr. INGALLS. I move that amendment then.

Mr. WEST. Without the other?

Mr. INGALLS. Without the other.

The PRESIDING OFFICER. The amendment is after the word "bond," in line 11 of section 2, to insert the words "to the United States."

The amendment was agreed to.

Mr. EDMUNDS. In line 13 (owing to the amendment which was agreed to in line 7 giving the commission a discretion not to contract unless they think it desirable) there should be a verbal amendment. I move to strike out the word "said" in line 13 and after the word "contract" insert "made;" so as to read "guaranteeing that the terms of the contract made shall be strictly and faithfully observed," so as to apply it to the alternative of there being a contract.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont.

Mr. SHERMAN. I suggest to the Senator whether he had not better make the word "contract" "contracts," because it may be that the commission will find it to the interest of the United States to make contracts for different portions of the work.

Mr. EDMUNDS. Very well; let it read "any contract or contracts made."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont, as modified.

The amendment, as modified, was agreed to.

Mr. DORSEY. I move after the word "cost," in line 9, of section 5, to insert: "which shall be collected and paid in the proportions, by the parties, and in the manner herein provided for paving the Avenue;" so as to make the section read:

SEC. 5. That the cost of laying down said pavement, including the removal of the present pavement, grading the Avenue, and all other work and materials necessary to fully complete said pavement for use, shall not exceed the sum of $4.60 per square yard: *Provided, however*, That said commission shall have power to contract for the repair and maintenance of said pavement for a period not exceeding ten years, and at no greater cost than 3 per cent. per annum of the original cost, which shall be collected and paid in the proportions, by the parties, and in the manner herein provided for paving the Avenue.

Mr. WEST. What does the amendment mean?

Mr. DORSEY. The provision of section 5 authorizes the commission to make a contract for the maintenance of this pavement. The amendment, under that, is that the amount to be paid for such maintenance shall be paid in the same manner as the pavement of the Avenue; that is, one-third by the General Government, one-third by the property-owners, and one-third by the District. It is a necessary provision.

Mr. SAULSBURY. I very much question the propriety of that provision which confers upon these commissioners the power to make a contract for the maintenance of this pavement for ten years. It will be utterly impossible for the commissioners to be in possession of the proper knowledge to make an intelligent contract on that point. They will not be able to know what may be the necessary repairs that may be proper on the street for ten years. It may not require any for two, three, four, or five years. If the work is done faithfully and properly it may not require any at all. It is utterly impossible for these commissioners to now enter into a contract as to the cost of maintaining this street for ten years without at least more information than I can see that they can obtain. This is to pay for a guarantee that perhaps will not be required when the work is properly done. I think that matter may safely be left to Congress to determine hereafter what repairs should be done, or left to the District government, as is suggested by my friend from New Jersey, [Mr. RANDOLPH.] Surely the expense of maintaining the street should not form an element in the contract entered into by these commissioners. For that reason I am opposed to this amendment and to the provision entirely. I think we had better strike it out. I move, therefore, that that part of the bill be stricken out.

Mr. DORSEY. The Senator from Delaware seems to be under the impression that the provision permitting this commission to make a contract for the maintenance of the pavement for a period of ten years is likely to impose an unjust and oppressive taxation upon this District or upon the Government. The simple truth is that the entire cost, if such a contract was made, would be only thirty cents a yard for the whole ten years; and I believe that ordinary stone pavements, which are supposed to last longer than others, hardly last over eight or nine years, and they have to be replaced at a cost of four or five dollars a yard. I do not think there is a property-holder on the Avenue who will not object seriously to that provision being stricken out. It was put in at the instance of the property-holders, who said that, if this Avenue was to be paved and provision made for keeping it in repair, it could be kept in repair at a very slight expense if it is watched constantly; and thus the expense of repaving it will be greatly reduced. I am satisfied, if the Senator will consider the matter, he will withdraw his motion to strike out.

Mr. SHERMAN. I ask that the amendment be reported.

The PRESIDING OFFICER. The Senator from Delaware moves to strike out the proviso.

Mr. MORRILL, of Vermont. To strike out the whole section, according to the argument of the Senator from Delaware.

The PRESIDING OFFICER. Will the Senator from Delaware state his amendment?

Mr. SAULSBURY. To strike out the proviso in the fifth section.

The CHIEF CLERK. It is proposed in the fifth section to strike out the following proviso:

Provided, however, That said commission shall have power to contract for the repair and maintenance of said pavement for a period not exceeding ten years, and at no greater cost than 3 per cent. per annum of the original cost.

Mr. SHERMAN. What is the amendment of the Senator from Arkansas?

The PRESIDING OFFICER. The Senator from Arkansas moves to perfect this proviso, and that is first in order.

The CHIEF CLERK. The amendment of Mr. DORSEY is to add to the fifth section:

Which shall be collected and paid in the proportions, by the parties, and in the manner herein provided for paving the Avenue.

Mr. SHERMAN. I think that practically the amendment of the Senator from Arkansas will be very embarrassing to the District government. In the first place it compels them to keep up a special assessment on all the owners of property along the Avenue every year for ten years. It divides the responsibility of maintaining the streets of the city of Washington in good order. It takes away for ten years from the governing power of the District the control over the repairs of the Avenue. If this is to be a concrete pavement, as I think it ought to be, although I voted to enlarge the powers of the commission, it ought to be repaired probably every day or two, or every three or four days. Here and there where a spot becomes defective it ought to be repaired. Now, to make a continuing contract, and to give to a single party the exclusive right of making these repairs, and saying when they shall be made and how made, will be a very great embarrassment. Then, to single out this street and lay a special tax for its repairs for ten years would be very embarrassing in the administration of the government of the city. I shall therefore certainly oppose the amendment of the Senator from Arkansas.

The repair of Pennsylvania avenue, after it is once completed, ought to be a part of the general expense of the District, and ought to be conducted by the officers in charge of the repairs of other streets. It ought not to be placed in the care of contractors, who may die or move away, or whose condition may change entirely. It ought to be left to those having charge of the general affairs of the District.

I agree with the Senator from Delaware that when this pavement is made it ought to be made to last, and that if there is any risk about it the Government of the United States ought to take the risk and not leave it to contractors, not depend on contractors. The result will be that if it proves to be a failure, the contractors will not make the repairs; and if it proves to be a success and no repairs are needed, they will get the stipulated price; so that in either event we are likely to lose. If they bid too low, they will not make the repairs and the Government will be constantly emba rrassed by the failure to repair.

It seems to me we had better leave this proviso entirely out. At all events I hope we shall not adopt the suggestion of the Senator from Arkansas.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas, [Mr. DORSEY.]

The amendment was rejected.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Delaware [Mr. SAULSBURY] to strike out the proviso to the fifth section.

Mr. EATON. I hardly think that proviso ought to be stricken out; perhaps it ought to be amended. My experience leads me to think that it had better not be stricken out, and I will give my reason very briefly. I will suppose that here is a contractor in New York, Baltimore, or elsewhere, who has great confidence in a certain pavement which he desires to put down. He will contract to keep that in repair for five or ten years. I should prefer a proviso of that character, that whoever the contractor is he should contract with the commission to keep the pavement in repair. I think we ought in some way to have that in the bill. The contractor might be willing to say that for $300,000, or whatever the sum might be, he would "contract to lay the pavement and keep it in repair for ten years and give good bond and security therefor." That is what we desire. That is what has been done in other places, and it may be done here.

Mr. SAULSBURY. In my opinion, that would be a very proper power to confer on the commissioners. By the terms of the proviso the expenses of the repairs are to be not exceeding 3 per cent. per annum, which would amount in the course of ten years to 30 per cent. of the cost of making the improvement of the street. Now any contractor entering into this contract knowing the price and the cost of the work would add at least the 30 per cent. which it is provided he may have, and it may not actually cost 10 per cent. in the ten years to keep up the repairs. We are burdening the property-holders on the Avenue enough when we require them to pay one-third of the cost of laying this pavement; and to add to that 30 per cent. to be levied and collected out of them on the cost for the purpose of keeping up repairs, when we do not know what amount of repairs may be required, is, in my judgment, unwise. I am therefore opposed to it. I think this matter had better be left to Congress to determine hereafter what repairs should be made, or to the District government, or to some other power than the contractor. We ought to have the control of this affair, and not place it out of our power, as was once done when the affairs of this District were placed in charge of the board of public works. We have to provide the money for it and we ought to hold the control of it. If we enter into any contract at all, limit that contract to simply laying down the pavement on the street, leaving hereafter to be provided for any repairs that may be necessary.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Delaware, [Mr. SAULSBURY.]

The amendment was agreed to.

Mr. WEST. I desire to perfect section 5 by the insertion of certain words that I think will remove the section from somewhat of an ambiguity. There is a limitation on the cost of this pavement in section 5 to $4.60 per square yard, the language being that the entire cost of the pavement shall not exceed that. It is not a matter of interest to the property-holders or the Government of the United States how much it costs the railroad company to lay down their part; and I move to exempt their expense from the total cost, so as to make the cost of the pavement fall on the property and on the Government of the United States to the extent of $4.60. My amendment is to insert at the end of the first line of the fifth section the words—

Exclusive of the work charged to and paid for by the Washington and Georgetown Railroad Company, but—

So as to read—

that the cost of laying down said pavement, exclusive of the work charged to and paid for by the Washington and Georgetown Railroad Company, but excluding the removal of the present pavement, &c.

Mr. DORSEY. That amendment is acceptable.

The amendment was agreed to.

Mr. BAYARD. I offer my amendment now and ask that it be read for the information of the Senate.

Mr. EATON. Will the Senator from Delaware permit me to offer an amendment to perfect the fifth section?

Mr. BAYARD. Yes, sir.

Mr. EATON. In lieu of the proviso which was stricken out on the motion of the Senator from Delaware nearest me, [Mr. SAULSBURY,] I propose to offer another in these words:

Provided, That said commission shall demand from the contractor or contractors good and sufficient security that said pavement shall be kept in good repair for the term of eight years.

Now, Mr. President, in my judgment this proviso ought to be attached to the bill. If any contractor has in hand material in which he believes and confides, and if he will make his contract to pave the Avenue and agree to keep it in repair for this term of years, it ought to be done. If not, the commission may possibly be deceived, and in two or three years large amounts may be demanded for repairs. Let the contract be made, let security be given, that the United States and the people of this District will not suffer in this respect, at least, for the term of eight years.

Mr. MORRILL, of Vermont. I suggest to the Senator from Connecticut, without expressing any opinion as to the propriety of his amendment, that he should insert after the word "contractors" the words "if any contract should be made," as it is optional now by the bill, as it stands, with the commissioners to do it under their own supervision.

Mr. EATON. I accept the modification.

Mr. RANDOLPH. My objection to the amendment offered by the Senator from Connecticut is of a purely practical character. It is that no contractors of responsibility are likely to make a contract with the Government at a reasonable price for the term of eight years, and if they were disposed to do so, it is very questionable whether such bonds could be given as would be acceptable to a proper commission.

In addition to that, every member of this body will readily understand that in that event a certain percentage, largely in excess of that which would probably be necessary to make the needful repairs, would be added to the original price. For illustration, if a contractor was willing to do this work at $3 a yard and keep it in repair for a year or two, he would add to that $3 under the amendment proposed by the Senator from Connecticut 10, 20, or 30 per cent. to provide for the contingency. Thus in advance we should be paying for that which may never arise. It amounts, as the Senator from Delaware [Mr. BAYARD] suggests to me, in eight years practically to 24 per cent. on the basis of this bill.

I agree with the Senator from Connecticut that some provision should be made by which this pavement shall be kept in order a reasonable length of time, but the term of eight years strikes me, as one having some experience in such matters, as rather an unreasonable time. I do not think any responsible contractor would engage to do it, and if he did I question very much whether the bond of such a contractor should be taken. I wish, therefore, the Senator from Connecticut would modify his amendment.

Mr. EATON. Have you any objection to making it five years?

Mr. RANDOLPH. That is pretty long.

Mr. DORSEY. By a section of this bill the cost of removing the old pavement on the Avenue and keeping up the street, preparing the foundation for this pavement and the entire cost connected with it, is limited to $4.60 per square yard. It seems to me it is simply absurd to talk about making a contract for a good substantial pavement on the Avenue with a guarantee that it shall be kept in order for eight years at that price. That is an impossible thing to do. I move to amend the amendment of the Senator from Connecticut by striking out "eight" and inserting "three."

Mr. EATON. Say "five."

Mr. DORSEY. No; that is too long.

Mr. EATON. I do not like to accept three years; I have no objection to five. My friend from New Jersey has said that his is a practical objection. There can be, I think, no practical objection. I have myself made contracts where work was to be kept in order for ten years, and I made my contracts for a reasonable price. Therefore it was that I placed this at eight, and I have now modified it to five. I do not like to make it for less than five years.

Mr. RANDOLPH. The advantage the Senator from Connecticut had over the contractors as compared with others was that they expected him to live; but some of these contractors may not live ten years, and I, for one, would not like to be their bondsman.

Mr. EATON. They may assign the bond, and somebody else will carry it out.

Mr. RANDOLPH. I do not believe any responsible man would go on such a bond.

Mr. EATON. It is very easy for the Senator to say that he does not believe the bonds will be given after he has been assured that such contracts have been made time and time again. I have already reduced the time to five years. I venture to say that in this city, in Baltimore, and in every other city in this Union where public work has been done, contracts have been made upon these terms for the period of five years. I know myself personally that more than once they have been made for ten years.

Mr. RANDOLPH. I have no objection to "five."

Mr. EATON. I modify it to five years. If there is no bondsman there will be no work, and we shall have to travel over this Avenue as we do to-day.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas [Mr. DORSEY] to the amendment of the Senator from Connecticut, [Mr. EATON,] substituting "three" years for "five."

Mr. BAYARD. The Senator from Arkansas will observe that the Senator from Connecticut has modified his amendment to five years. That is so near the point that it might be accepted.

Mr. DORSEY. It seems to me five years is too long; the sum of money we allow for this purpose is insufficient.

Mr. ALLISON. I do not think we ought to adopt either amendment. We have selected three commissioners to make a good pavement on this avenue, and I think after that pavement is laid down the District government ought to be charged with repairs, and that this avenue should be kept constantly in repair out of the general funds of the District. We have had a great deal of experience in reference to guarantees for three years in this District already. I do not think they have been of any real service whatever. The contractors neglect to carry out their contracts; they are then sued in the courts; in the mean time the Avenue is out of repair. I think we should lay down a good pavement here and pay for it, and then have it repaired from time to time out of the general funds of the District. Therefore I shall vote against both these amendments.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas to the amendment of the Senator from Connecticut.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Connecticut.

The amendment was rejected, ayes 10, noes not counted.

Mr. INGALLS. I desire to call the attention of the Senate to two defects in section 4. The first three lines read: "That the assessment contemplated in the foregoing section shall be made by the commission above authorized." The fact is that there are no assessments contemplated in the preceding section, and it is very doubtful whether the commission could make any if they were contemplated. The power to levy and assess taxes rests with the District authorities, and cannot be properly conferred upon the commission whose duty it is to pave this avenue. I would suggest that the section be amended by striking out the word "the" before "assessments" in the first line, and the words "contemplated in the foregoing section," and the words "commission above authorized;" so that the section will read:

That assessments shall be made by the commissioners of the District of Columbia.

And then add:

Upon the owners of private property abutting on said avenue and upon the said railway company the amounts respectively provided for in section 3 of this act.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. INGALLS. In order to complete the section in accordance with that amendment, it will be necessary, in line 11, to strike out "said" and insert "the," and after "commission" to insert the words "herein authorized;" so as to read:

On the warrant or order of the commission herein authorized.

The amendment was agreed to.

Mr. McCREERY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After ten minutes spent in executive session, the doors were re-opened, and (at four o'clock and fifty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *April* 13, 1876.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of yesterday was read.

Mr. SOUTHARD. I rise to a correction of the Journal. On yesterday I reported from the Committee on Territories a Senate bill with amendments for the admission of the Territory of New Mexico as a State, and the bill, as amended, was ordered to be printed and recommitted. The order of the House was that the bill should not be brought back on a motion to reconsider. That order is not entered upon the Journal.

The SPEAKER. That was the order of the House, and the Journal will be corrected accordingly.

The Journal, as corrected, was then approved.

CORRECTION OF THE CALENDAR.

Mr. JONES, of Kentucky. I rise to a privileged question, the correction of the Calendar. On the 30th of March I reported to the House from the Committee on Railways and Canals a bill (H. R. No. 2798) to authorize the Washington, Cincinnati and Saint Louis Railroad Company to construct a narrow-gauge railway from tide-water to the cities of Saint Louis and Chicago, and it was made a special order for Tuesday, the 18th of April, as the RECORD will show. By some mistake the Calendar contains the statement that it was made a special order for Saturday, April 15. I desire to have the Calendar corrected.

The SPEAKER. That is not a question of privilege. The Journal is correct, and as that and not the Calendar will guide the action of the House, the error in the Calendar will not cause any difficulty.

BERTHOLD LOEWENTHAL.

Mr. BURCHARD, of Illinois. I am instructed by the Committee of Ways and Means to report back, with a recommendation that the same do pass, House bill No. 1713, for the relief of Berthold Loewenthal, of Chicago, Illinois. It is similar to a bill that was passed by the House and the Senate some time since in the case of George Hibbard.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. HURLBUT. I raise the point of order that the bill containing an appropriation must receive its first consideration in the Committee of the Whole.

Mr. BURCHARD, of Illinois. That point of order is well taken if insisted upon.

Mr. O'BRIEN. It is insisted upon.

The bill was accordingly referred to the Committee of the Whole on the Private Calendar.

SURPLUS REVENUE.

Mr. THOMAS, from the Committee of Ways and Means, reported back the joint resolution (H. R. No. 12) in regard to the surplus revenue, with an amendment striking out the third paragraph of the preamble; and moved that the joint resolution be referred to the Committee of the Whole on the state of the Union.

The motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 2450) to provide for a deficiency in the Printing and Engraving Bureau of the Treasury Department and for the issue of silver coin of the United States in place of fractional currency; and

An act (H. R. No. 2934) to provide for the expenses of admission of foreign goods to the centennial exhibition at Philadelphia.

MINING STATISTICS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Acting Secretary of the Treasury, transmitting the report of the commissioner of mining statistics; which was referred to the Committee on Mines and Mining, and ordered to be printed.

CATTARAUGUS RESERVATION, NEW YORK.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting, in reply to House resolution of April 3, papers relating to surveys in the Cattaraugus reservation, in New York; which was referred to the Committee on Indian Affairs.

CONSTRUCTION OF MILITARY POSTS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the opinion of the General of the Army on House bill No. 2118, for the construction of military posts on the Yellowstone and Muscleshell Rivers; which was referred to the Committee on Military Affairs.

HARMON L. VAN NESS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report in the case of Harmon L. Van Ness, late private in Company D, Fourteenth Cavalry; which was referred to the Committee on Invalid Pensions.

ORDER OF BUSINESS.

The SPEAKER. Is there objection to taking from the Speaker's table, for appropriate reference at this time, the bills which have been received from the Senate?

There was no objection.

JOHN M. ENGLISH.

The first business upon the Speaker's table was the bill (S. No. 708) for the relief of John M. English, of North Carolina; which was taken from the table and read a first and second time.

Mr. VANCE, of North Carolina. I ask that this bill be now considered with an amendment. The same bill passed the House, but with a provision in it providing that the man should give a bond.

The SPEAKER. This is a Senate bill.

Mr. VANCE, of North Carolina. It is the same as the House bill, except the provision which I have stated, requiring a bond to be given to secure the United States.

The SPEAKER. Is there objection to the consideration of this bill at this time?

Mr. HURLBUT. I object

Mr. VANCE, of North Carolina. Then the bill should be referred to the Committee on Invalid Pensions.

The bill was referred accordingly.

INTERMENTS IN CONGRESSIONAL CEMETERY.

The next business on the Speaker's table was the bill (S. No. 679) relating to interments in the Congressional Cemetery; which was taken from the table, read a first and second time, and referred to the Committee for the District of Columbia.

ADMINISTRATION OF OATHS IN THE SENATE.

The next business on the Speaker's table was the bill (S. No. 701) to further provide for the administering of oaths in the Senate; which was taken from the table, read a first and second time, and referred to the Committee on the Judiciary.

INVESTIGATION OF MISSISSIPPI ELECTION.

The next business on the Speaker's table was the bill (S. No. 706) making an appropriation to defray the expenses of the committee appointed by the Senate to investigate the recent election in Mississippi; which was taken from the table, and read a first and second time.

Mr. RANDALL. I do not know whether it is necessary to refer that bill. An appropriation of $10,000 to meet this expenditure is included in the deficiency bill passed by the House yesterday.

The SPEAKER. The bill had better be referred.

The bill was referred to the Committee on Appropriations.

DISTRIBUTION OF PUBLIC DOCUMENTS.

The next business on the Speaker's table was the bill (S. No. 563) to provide for the sale of extra copies of public documents, and for the distribution of the regular official editions thereof; which was taken from the table, read a first and second time, and referred to the Committee on Printing.

ORDER OF BUSINESS.

Mr. RANDALL. I call for the regular order.

The SPEAKER. The morning hour begins at half past twelve o'clock. The regular order this morning is the call of committees for reports of a public nature, and the call rests with the Committee on Public Lands.

RESTORATION OF LANDS TO THE PUBLIC DOMAIN.

Mr. WALLING, from the Committee on Public Lands, reported as a substitute for House bill No. 1033 a bill (H. R. No. 3133) to restore lands conditionally granted, the conditions of which have lapsed, to the public domain; which was read a first and second time, ordered to be printed, and recommitted.

CLAIMANTS ON NORTHERN PACIFIC RAILROAD GRANT.

Mr. WALLING, from the same committee, reported back, with an amendment, the bill (H. R. No. 2473) to authorize claimants upon even-numbered sections of land within the twenty-mile limits of the Northern Pacific Railroad to make proof and payment for their claims at the ordinary minimum rate of $1.25 per acre.

The bill was read. It provides that claimants upon even-numbered sections within the twenty-mile limits of the Northern Pacific Railroad shall be entitled to make proof and payment upon their claims at the ordinary minimum rate of $1.25 per acre where settlement was made in good faith prior to the definite location of the railroad, upon making proper proof of settlement, cultivation, and occupation as required by existing law.

The amendment reported by the committee was read, as follows:

In line 4, after the word "railroad," insert the following: "According to its preliminary location, but not within the twenty-mile limits as definitely located."

Mr. WALLING. The object of this bill is that settlers who located and made claims within the preliminary location of the land grant of the Northern Pacific Railroad, and who were treated by the Department as maximum settlers under that preliminary location, shall now be permitted to pay for their lands as minimum settlers, their lands being outside the limits of the definite location of the road. Persons who have lands on adjoining sections are now entitled to pay for their land under pre-emption entries at $1.25 an acre, the minimum rate. This bill gives simply the same right to persons who settled there before the definite location.

Mr. DUNNELL. I do not know that anything further need be said in support of this bill. The facts can readily be understood. Certain settlers went within what was the temporary location of these railroad lands, expecting to pay for them at the rate of $2.50 per acre. Subsequently, when the definite location was made, they were thrown outside of the twenty-mile limit. Consequently they should not be required to pay more than $1.25 an acre, the same as settlers on adjacent lands. The bill simply secures to these men the rights they would have had but for the change of the location of the road.

The amendment reported by the committee was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. WALLING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NORTHERN PACIFIC RAILROAD LANDS.

Mr. LANE, from the Committee on Public Lands, reported as a substitute for House bill No. 1552 a bill (H. R. No. 3134) to restore to the public domain land heretofore withdrawn in favor of the Northern Pacific Railroad north of Tacoma, its terminus on Puget Sound, and which is not opposite to and conterminous with its completed line; which was read a first and second time, ordered to be printed, and recommitted.

ARSENAL PROPERTY, LITTLE ROCK, ARKANSAS.

Mr. GAUSE, from the same committee, reported back the bill (H. R. No. 2383) for the dispostion of the arsenal grounds and buildings at Little Rock, Arkansas, and for other purposes, and moved that the committee be discharged from its further consideration and that it be referred to the Committee on Military Affairs.

The motion was agreed to.

GRANT OF LAND TO THE CITY OF STEVENS POINT, WISCONSIN.

Mr. MOREY, from the same committee, reported back the bill (H. R. No. 1947) granting to the city of Stevens Point, Wisconsin, a certain piece of land, with the recommendation that it do pass.

The preamble recites that there is situated in the Wisconsin River, within the city of Stevens Point, Wisconsin, a small island containing less than one square acre of land, which has for many years been used for the storage of powder and other combustible or inflammable goods, and the people of said city are desirous that the said island be granted to the city for that purpose.

The bill directs the Commissioner of the General Land Office of the United States to cause to be patented to the city of Stevens Point, Wisconsin, the following-described piece of land, to wit, the island in the Wisconsin River, within the corporate limits of the city of Stevens Point, Wisconsin, in section 31, township No. 24 north, in range 8 east of the fourth principal meridian in said State.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MOREY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GRANT OF LANDS TO TERRITORIES FOR UNIVERSITY PURPOSES.

Mr. KIDDER, from the Committee on Public Lands, reported, as a substitute for House bill No. 1549, a bill (H. R. No. 3135) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes, with a substitute.

The substitute, which was read, grants to the Territories of Dakota, Montana, Arizona, Idaho, and Wyoming seventy-two entire sections of unappropriated lands within each of the said Territories, to be selected, located, and applied, under the direction of the Legislatures thereof respectively, with the approval of the President of the United States, for the use and support of a university in each of the said Territories.

Mr. KIDDER. I will send up a letter pertinent to this subject from the Commissioner of the General Land Office, which I ask the Clerk to read.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 12, 1876.

SIR: In reply to your letter of the 9th instant, addressed to the honorable Secretary of the Interior, which has been referred to this Office for answer, I have the honor to state that Congress has set apart public lands for the benefit of universities in the Territories of Washington, New Mexico, and Utah to the amount of seventy-two sections, or 46,080 acres each; in Washington, by act of July 17, 1854, Statutes, volume 10, page 305; in New Mexico, by act of July 22, 1854, Statutes, volume 10, page 308; and in Utah, by act of February 21, 1855, Statutes, volume 10, page 611.

In Colorado the quantity of seventy-two sections, or 46,080 acres, was granted for university purposes by the act of March 3, 1875, Statutes, volume 18, page 474, providing for the admission of that Territory as a State of the Union.

In the Territories of Dakota, Montana, Arizona, Idaho, and Wyoming there has been no land set apart by Congress for the benefit of universities.

The foregoing embraces all the organized Territories of the United States, to which only your inquiry is understood to refer.

Very respectfully, your obedient servant,

L. K. LIPPINCOTT,
Acting Commissioner.

Hon. J. P. KIDDER,
House of Representatives.

Mr. KIDDER. It will be seen that all of the Territories except those named in this substitute have had lands donated to them in this way. The original bill included only the Territory of Dakota, while the substitute covers all of the remaining Territories.

Mr. DUNNELL. Is not this bill subject to a point of order?

The SPEAKER. It is.

Mr. HOLMAN. I wish to suggest to my friend an amendment to this measure. I will not press it, but I would be glad to have it considered by the House.

Mr. DUNNELL. I think this bill had better go to the Calendar. It will provoke discussion, and if the committee desire to avoid the waste of time it had better go to the Calendar.

The SPEAKER. It is subject to a point of order.

Mr. SAYLER. I desire to say to the gentleman who raises the point of order that this bill only gives to the remaining Territories precisely the same land for university purposes which has been given to all the other Territories. It only puts them on an equality.

Mr. DUNNELL. I insist on the point of order.

The SPEAKER. The point of order is insisted on, and the bill must go to the Committee of the Whole on the state of the Union.

Mr. HOLMAN. I ask to have an amendment pending to the bill when it goes to the committee, which I ask the Clerk to read.

The Clerk read as follows:

And nothing in this act shall prevent the Legislatures of the said Territories respectively from devoting the proceeds of said lands to the permanent endowment of a system of common schools within said Territories.

Mr. KIDDER. There is no objection to the pendency of that amendment.

The bill and amendments were referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

SALE OF DESERT LANDS.

Mr. HATHORN, from the Committee on Public Lands, reported back the bill (H. R. No. 125) to provide for the sale of desert lands in Modoc and Siskiyou Counties, California, with an amendment to the title.

The bill, which was read, provides in the first section that it shall be lawful for any citizen of the United States, or any person of the requisite age "who may be entitled to become a citizen, and who has filed his declaration of intention to become such," to file a declaration with the register and the receiver of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land, "not exceeding one section, by conducting water upon the same within the period of two years thereafter;" said declaration shall describe particularly said section of land if surveyed, and if unsurveyed shall describe the same as nearly as possible without a survey. At any time within the period of two years after filing said declaration, upon making satisfactory proof of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the sum of $1.25 per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him.

The second section provides that all lands, exclusive of timber lands and of mineral lands, which do not produce grass or which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands within the meaning of this act.

The amendment to the title is to strike out "Modoc and Siskiyou Counties" and insert "the State of."

Mr. HATHORN. As will be seen, this bill provides for the sale of barren, desert lands, upon which neither tree, shrub, nor blade of grass grows. The ingenuity of man has devised by means of reservoirs and irrigation a plan by which these sterile tracts may be made productive. This provides for the sale of such desert lands in California, and I do not see what objection there can be to a proposition so reasonable. It only affords an opportunity for the reclamation of these now worthless lands. I demand the previous question.

Mr. PATTERSON. I should like to ask the privilege of offering an amendment to the bill, so as to include the Territory of Colorado.

Mr. HATHORN. I am willing to allow that amendment to be pending.

Mr. LANE. I trust the gentleman from Colorado will withdraw his amendment, as it is in contemplation to present a bill of a general character applicable to all the desert lands of the United States, the provisions of which will cover the gentleman's amendment.

Mr. PATTERSON. I hope there will be no objection to allowing my amendment to the bill, as we are on precisely the same footing with California so far as that class of lands is concerned. Let us have the benefit of the passage of this bill as soon as possible.

Mr. LUTTRELL. Let it go.

Mr. PAGE. Mr. Speaker, I wish to ask the consent of the committee that this bill shall be recommitted. So far as I am concerned I have not had an opportunity to examine the bill, and being a Representative in part of the State of California I should like to do so before the bill is passed. I presume I will have no objection to it, but I should like first to examine it.

The SPEAKER. Does the gentleman from New York, having charge of the bill, assent to its recommittal?

Mr. HATHORN. Yes, sir.

The SPEAKER. The bill is recommitted to the Committee on Public Lands.

Mr. LUTTRELL. I am very sorry the gentleman from New York has agreed to that course.

The SPEAKER. Debate is not in order. The bill has been disposed of.

HOMESTEAD ENTRIES IN MICHIGAN.

Mr. CROUNSE, from the Committee on Public Lands, reported, as a substitute for House bill No. 2923, a bill (H. R. No. 3136) extending the time within which homestead entries upon certain lands in Michigan may be made; which was read a first and second time.

The bill reported as a substitute provides that section 1 of an act entitled "An act to amend the act entitled 'an act for the restoration to market of certain lands in Michigan, approved June 10, 1872,'" approved March 3, 1875, be, and thereby is, amended so as to read as follows:

That the act approved June 10, 1872, entitled "An act for the restoration to market of certain lands in Michigan" be, and is hereby, amended so as to authorize the Secretary of the Interior to cause patents to be issued to three hundred and twenty members of the Ottawas and Chippewas of Michigan, for the selections found to have been made by them, but which were not prior to the passage of said act regularly reported and recognized by the Secretary of the Interior and Commissioner of Indian Affairs; and the remainder of said lands not disposed of, and not valuable, mainly for pine timber, shall be subject to entry under the homestead laws.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CROUNSE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RESTORATION TO MARKET OF LANDS IN UTAH.

Mr. CROUNSE also, from the same committee, reported back, with the recommendation that it do pass, the bill (H. R. No. 2110) for the restoration to market of certain lands in the Territory of Utah.

The bill repeals so much of the act of Congress approved May 5, 1864, and entitled "An act to vacate and sell the present Indian reservation in Utah Territory, and to settle Indians of said Territory in the Uinta Valley," as directs the Secretary of the Interior to cause to be appraised and offer for sale upon sealed bids the reservations therein referred to; and authorizes and directs the Secretary of the Interior to restore the same to the public domain for disposition as other public lands.

Mr. CROUNSE. This bill applies to lands which were included within a certain Indian reservation in the Territory of Utah. As far back as May 5, 1864, a bill passed Congress for the appraisement and sale of those lands. From that date to this there has been no bid for nor sale of any portion of those lands. This bill proposes simply to release them from the operation of the act of 1864, and to throw them open to the same disposition as other public lands.

Mr. DUNNELL. I desire to ask the gentleman from Nebraska whether the Indian Bureau approves of this bill?

Mr. CROUNSE. Yes, sir. I have a letter here which I will not take time to read, but which shows that the bill has the approval both of the Land Office and of the Indian Bureau.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CROUNSE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LIMITS OF RESERVATIONS FOR TOWN SITES.

Mr. CROUNSE also, from the Committee on Public Lands, reported back, with the recommendation that it do pass, with amendments, the bill (H. R. No. 1765) respecting the limits of reservations for town sites upon the public domain.

The bill was read, as follows:

Be it enacted &c., That the existence on incorporation of any town upon the public lands of the United States shall not be held to exclude from pre-emption or homestead entry a greater quantity than twenty-five hundred and sixty acres of land, or the maximum area which may be entered as a town site under existing laws, unless the entire tract claimed or incorporated as such town site shall, including and in excess of the area above specified, be actually settled upon, inhabited, improved, and used solely and exclusively for business and municipal purposes.

SEC. 2. That where entries have been heretofore allowed upon lands afterward ascertained to have been embraced in the corporate limits of any town, but which entries are or shall be shown, to the satisfaction of the Commissioner of the General Land Office, to include only vacant unoccupied lands of the United States, not settled upon or used for municipal purposes, nor devoted to any public use of such town, said entries, if regular in all other respects, are hereby confirmed and may be carried into patent: *Provided*, That this confirmation shall not operate to restrict the entry of any town site to a smaller area than the maximum quantity of land which, by reason of present population, it may be entitled to enter under section 2389 of the Revised Statutes.

SEC. 3. That whenever the corporate limits of any town upon the public domain are shown or alleged to include lands in excess of the maximum area specified in section 1 of this act, the Commissioner of the General Land Office may require the authorities of such town, and it shall be lawful for them to elect what portion of said lands, in compact form and embracing the actual site of the municipal occupation and improvement, shall be withheld from pre-emption and homestead entry; and thereafter the residue of such lands shall be open to disposal under the homestead and pre-emption laws. And upon default of said town authorities to make such selection within sixty days after notification by the Commissioner, he may direct testimony respecting the actual location and extent of said improvements to be taken by the register and the receiver of the district in which such town may be situated; and, upon receipt of the same, he may determine and set off the proper site according to section 1 of this act, and declare the remaining lands open to settlement and entry under the homestead and pre-emption laws.

The amendments reported by the committee were as follows:

In lines 10 and 11 of the first section strike out the words "solely and exclusively."

Add to the third section of the bill the following:

And it shall be the duty of the secretary of each of the Territories of the United States to furnish the surveyor-general of the Territory, for the use of the United States, a copy duly certified of every act of the Legislature of the Territory incorporating any city or town, the same to be forwarded by such secretary to the surveyor-general within one month from the date of its approval.

Add the following section:

SEC. 4. It shall be lawful for any town which has made, or may hereafter make, entry of less than the maximum quantity of lands named in section 2389 of the Revised Statutes, to make such additional entry or entries of contiguous tracts, which may be occupied for town purposes as, when added to the entry or entries therefor made will not exceed twenty-five hundred and sixty acres: *Provided*, That such additional entry shall not, together with all private entries, be in excess of the area to which the town may be entitled at the date of the additional entry by virtue of its population as prescribed in the said section 2389.

Mr. CROUNSE. Mr. Speaker, as will be seen by reference to the laws relating to pre-emption and homestead entries upon the public lands of the United States, certain lands are excluded from the operation of those laws. Among these are "lands included within the limits of any incorporated town, or selected as the site of a city or town."

The laws respecting the incorporation of towns and cities within the several States and Territories which contain public lands are enacted by the Legislatures of such States and Territories. The limits of any city may be more or less extended as the special or general laws referred to may permit, and in some instances to which my attention has been directed they have been swelled beyond all propriety or any possible need for municipal purposes. The abuse of which I speak obtains more particularly in the Territory of Utah. Much of the legislation there for years is made up of charters to local municipalities and grants of special privileges of this kind.

Here is a list handed me of cities incorporated by the Legislature of Utah from time to time since the organization of that Territory, and as nearly as may be estimated the area of territory included in each:

	Square miles.		*Square miles.*
Parowan City	25	Provo Grove	25
Millard City	36	Springville Grove	25
Tooele City	9	Spanish Fork	30
Saint George City	25	Payson Fork	25
Beaver City	36	Manti Fork	16
Fillmore City	36	Salt Lake Fork	7
Grantsville City	18	Nephi Fork	16
Coalville City	20	Alpine Fork	4
Deseret City	36	Ogden Fork	20
Smithfield City	16	Logan Fork	16
Franklin City	18	Wellsville Fork	16
Hyrum City	9	Maroni Fork	40
Mendon City	9	Brigham Fork	12
Willard City	6	Richmond Fork	16
Washington	20	Kaysville Fork	18
Cedar City	36	Ephraim Fork	12
Lehi City	16	Mount Pleasant	16
American Fork	16	Spring Fork	16
Pleasant Grove	40		

With but few exceptions the population of these cities must be quite insignificant, and for which a few acres in each would suffice to meet all demands for actual municipal purposes. Still here are something like seven hundred and fifty square miles of public domain, embracing a large portion of the lands there susceptible of cultivation, brought within incorporated limits and over which are extended municipal laws and regulations.

Now the construction given to the law denies the right of any one to enter any portion of any such town site, notwithstanding it may be unoccupied and not used or needed for municipal purposes. Such is the decision of the courts and such is the holding of the Interior Department.

A case of some importance involving this question arose in my State, that of Root *vs.* Shields, and was decided by Mr. Justice Miller, of the United States Supreme Court, whose opinion may be found in 1 Woolworth's Circuit Court Reports. I will not stop to read it in full, but will incorporate it in my remarks as they shall be printed in the RECORD:

1. The city was incorporated, and these lands included within the corporate limits in February, 1857.

2. Shields had no pre-emption claim to them prior to September, 1857.

3. The act granting to him such right, if any he had, provides that a party of the character therein described may pre-empt any portion of the public lands, except such as are included within the limits of an incorporated city. It does not need a single word to show that the law, on its face, does not authorize a pre-emption entry of the lands here in question. But it is insisted, on behalf of the defendants, that this exception in the law is inoperative here. One reason alleged is that the mischiefs of such a provision are so serious that Congress could not have intended the effects which would follow. It is said that the State or territorial Legislature, in which rests the authority of incorporating cities, might, by unduly extending their limits, exclude large bodies of land fit only for agricultural purposes from the beneficent operations of the pre-emption act, and defeat the object of Congress.

We do not stop to repeat what has been said a great many times of the duty of the court, when applying to a case a provision of a statute, the terms of which are clear and precise, and when urged to nullify it by considerations of mischief growing out of it. Here we think the mischiefs are imaginary rather than real. If the local legislature were so unwise as to endeavor to defeat the purposes of a law enacted for the benefit of its constituents, Congress could readily, and certainly would immediately, remedy the evil. And it is not conceivable that the local legislature would ever attempt any such thing.

The pre-emption law was enacted for the benefit of the settlers in the new States and Territories. It offers to that adventurous and worthy class of citizens the advantages of selecting and securing in advance of the speculator the more desirable tracts in the new region. And the uniform policy of the Land Department is to retain the public lands in such a situation for a long time, in order to give those who are willing to encounter the hardships and dangers of frontier life an opportunity to make selections and to settle upon them, and make payment for them at the minimum price before any portion of such lands are offered to purchasers in general. Accordingly such settlers constitute almost the whole body of citizens who settle in such regions. It is not conceivable that they would deliberately devise a measure which would defeat an enactment by which valuable privileges are secured to themselves, and by which the region of country in which they live would be populated and improved. Precisely this argument was urged in the case of Gilman *vs.* Philadelphia, 3 Wallace, 713, 731. It was held untenable there, for the reasons indicated above.

It is insisted that the clause in the law containing this exception is repealed by the provision in the act organizing the Territory, that its Legislature should not have authority to interfere with the primary disposal of the soil. It is said that if the territorial Legislature can, by incorporating a city, withdraw the lands included within its limits from the privileges of pre-emption, it may and it does thereby interfere with the primary disposal of the soil. This argument is specious rather than sound. If the provision of the organic act has the effect claimed, it is because it repeals the provision of the pre-emption law by implication. Between these two provisions there is no such repugnance that they cannot both stand. So that we cannot imply a repeal of the former by the latter. (United States *vs.* Ten thousand Cigars, *ante.*)

This provision in the act is the same as is found in most of the acts admitting new States into the Union. It is intended to withdraw from the local legislatures some special matter of general concernment, and indicates a settled policy in respect thereof.

In 1802, in the act admitting Louisiana, the words used were, "They," that is, the people of the new State, "forever disclaim all right or title to the waste or unappropriated lands lying within the said Territory; and the same shall be and remain at the sole and entire disposition of the United States." (2 Statutes at Large, 642.) And the very phrase here employed by Congress appears in the act for the admission of Michigan, passed on the 15th of June, 1836, (5 Statutes at Large, 59,) and will be found in all similar acts since passed. Having its origin in some reason of general application, it has been felt as a necessary, and adopted as an approved, provision in the legislation of Congress.

One or two considerations will disclose this. To incorporate a city located on the public lands, however contracted its limits, is to withdraw from the operation of the pre-emption law lands included within them. If including public lands within the limits of an incorporated city is an interference with the primary disposal of the soil, then the new States cannot pass an act incorporating a city located on the public lands. But this power in the States was never denied. It has always been exercised by them exclusively of the Federal Government. Indeed, the legislation of Congress concedes the power. So it cannot be that incorporating a city on the public lands interferes with the primary disposal of the soil, even though it has the effect to withdraw the lands within its limits from the operation of the pre-emption law.

I have thus far spoken of the power of States, and am reminded that the charter of Omaha was enacted by a Territory. But we have already seen that the provision has its place in acts admitting States, as well as in acts organizing Territories; and that it is universally used on account of a general policy. So the argument in the one case is of equal force in the other. An act incorporating a city which is located on the public lands does not, by its own force, withdraw lands from pre-emption. That effect is produced by the congressional provision, and is remote, indirect, and only consequential.

These obvious considerations show very clearly that when Congress provided that the Territory should not interfere with the primary disposal of the soil, it did not intend to deny the authority to incorporate a city on the public lands. But this exception in the pre-emption law was not inserted with any view whatever to the extent of the corporate limits of a city, whether they should be reasonable or unreasonable. It was assumed that there was a class of lands which the local authorities would regard as more desirable for town occupation than for agricultural use. Without any inquiry as to the correctness of the opinion on that subject of those who were on the ground, and without convenient means of answering such an inquiry, Congress deemed the short way the best way—to exclude them all from the operation of the act by a general rule. And when, with such a provision of statute before it, and with such obvious reasons for enacting it, Congress proceeded to organize the Territory with the clause which is before us, it is unreasonable to suppose that it intended to repeal or modify the former rule.

The clause in the organic act was intended to forbid the territorial Legislature passing any law to dispose of the public lands as if on its own authority, or intermeddling with the mode by which the General Government should dispose of them, or assuming any authority or jurisdiction in respect of that business. It was not intended to deny authority to pass a law which the Territory alone could intelligently enact.

Clearly the position of the defendants on this ground is untenable.

But we are met by still another reason against giving effect to the exception in the pre-emption law. It is that the act of May 23, 1844, (5 Statutes at Large, 657,) restricts the corporate limits of a city to three hundred and twenty acres. All that that act provides, so far as the matter here in hand is concerned, is that any portion of the public land actually occupied as a town site may, to the extent of three hundred and twenty acres, be by the corporate authorities entered at the proper land office, and at the minimum price, in trust for the occupants. Prior to the passage of that act there was no mode provided for the occupants of such towns acquiring their titles, except at public sales.

The public sales of lands are often delayed long after a large section of territory has been opened for settlement. This is in order to enable settlers to enjoy the preference in acquiring the more valuable tracts. And these sales are made in parcels of not less than forty acres each, and therefore do not afford an appropriate means to claimants of small lots for acquiring title thereto. Congress accordingly provided this mode of relief to such parties, expressly restricting the advantages which it granted to lands actually occupied, and to three hundred and twenty acres. The status of the remaining lands within the corporate limits was untouched. They could not be entered under this act, nor could they any more after than before the passage of it be pre-empted by an individual. The title to them could only be acquired at public sale.

No one of the reasons urged on behalf of the defendants against giving effect here to the clear and express provision of the law, that lands within the limits of an incorporated city should not be subject to pre-emption, are tenable. But if we look to the policy of the provision, we are led to the same conclusion.

Whenever a town springs up upon the public lands, adjoining lands appreciate in value. The reasons are obvious, and the fact is well known. So, too, when a railroad is built through a section of country, the same result follows. So, too, in respect of lands which have been reserved for the use of an Indian tribe, when the Indian title is extinguished, the same may be said. While such lands are held as a reserve, population flows up to their boundaries and is there staid; it of course constantly grows more and more dense, so that when the reserve is vacated, the lands have increased in value, and are always eagerly sought after. The other classes of lands mentioned in the exception, as for instance those on which are situated any known salines or mines, have some intrinsic value above others.

Now all these classes of lands are excepted from the operation of the act, and for the one common and obvious reason, that being of special value, the Government desires to retain the advantage of their appreciation, and is unwilling that

any individual, because of a priority of settlement, which certainly can be of but brief duration, should, to the exclusion of others equally meritorious, reap benefits which he did not sow.

This is as true of lands within the limits of an incorporated city as of any other of the classes mentioned in the exception. And it is no answer to this view to suggest that lands thus excluded from pre-emption are not occupied for a town. They are included within its limits by the local legislature because likely to be required for such occupancy. And it is this fact and their proximity to the town which give them special value. This very circumstance of their situation brings them into the classes of lands mentioned.

The lands were not, at the time Shields first asserted a pre-emption claim thereto, subject to entry under the act, and the entry which he made was illegal and void.

* * * * * * * *

It is further insisted on behalf of the defendants that they are *bona fide* purchasers, and that they as such are entitled to the protection of the court. I think it pretty clear that some at least of these defendants purchased and paid their money without any knowledge in fact of any defect in the title. Yet they are not *bona fide* purchasers for a valuable consideration without notice in the sense in which the terms are employed in courts of equity. And this is for several reasons.

They all purchased before the issue of the patent. The more meritorious purchased after the entry had been assailed and decided against by the Land Office. But this is a circumstance not material to this consideration. Until the issue of the patent the legal title remained in the United States. Had his entry been valid, Shields would have taken only an equity. His grantees took only an equity. They did not acquire the legal title. And in order to establish in himself the character of a *bona fide* purchaser, so as to be entitled to the protection of chancery, a party must show that, in his purchase and by the conveyance to him, he acquired the legal title. If he have but an equity, it is overreached by the better equity of his adversary.

Besides, these defendants were bound to know the law. They were bound to know that these lands were within the limits of the city; and that lands within the limits of a city cannot be pre-empted. Knowing these facts, they knew that Shields's entry was void. They did not purchase without notice.

Again, the defect in the title was a legal defect; it was a radical defect. It was as if no entry had ever been made. By it Shields did not take even an equity. After he had gone through the process of making the entry, after he received the patent certificate, Shields had no more right or title or interest in the land than he had before. And, as he had none, he could convey no interest in the land. By the deed which he made and by the successive deeds which they received, his grantees took no more than he had, which was nothing at all.

In order to the maintenance of this defense, there must subsist an interest which the law approves and will support, and we have shown in this opinion that that never existed.

There must be a decree according to the prayer of the bill.

Decree accordingly.

This opinion, as I have said, confirms the ruling of the Land Department, and may be regarded as the settled law relating to entries made within the incorporate limits of any city. With the law standing thus, not only are homestead and pre-emption entries disallowed therein when the limits of any town site are known to the local land officers, but even where patents in such cases may have, by inadvertence, been issued, no valid title passes. Not only this, but I presume the same must hold where the lands have passed from the patentee into the hands of an innocent, *bona fide* purchaser.

From this brief statement of facts and the law as pertaining thereto, it must be evident to members that legislation is needed to cut down these needlessly and mischievously large city limits, to restrict those which may be created hereafter, and to confirm the titles to those lands which may have been settled upon under the pre-emption and homestead laws, where such settlement does not interfere with any municipal need. This is the object of the bill. It has been framed with care, and its object and also the details of the bill have the approbation of the Commissioner of the General Land Office. I ask that the bill be put on its passage.

The amendments were agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CROUNSE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRE-EMPTION AND HOMESTEAD ENTRIES IN SOUTHERN STATES.

Mr. SAYLER, from the Committee on Public Lands, reported back, with a favorable recommendation, the bill (S. No. 34) to confirm pre-emption and homestead entries of public lands in cases where such entries have been made under the regulations of the Land Office.

The bill was read, as follows:

That all pre-emption and homestead entries or entries in compliance with any law of the United States of the public land, made in good faith by actual settlers upon tracts of land of not more than one hundred and sixty acres each within the limits of any land-grant prior to the time when notice of the withdrawal of the lands embraced in such grant was received at the local land office of the district in which such lands are situated or after their restoration to market by order of the General Land Office, and where the pre-emption and homestead laws have been complied with and proper proofs thereof have been made by the parties holding such tracts or parcels, they shall be confirmed and patents for the same shall issue to the parties entitled thereto.

SEC. 2. That when at the time of such withdrawal, as aforesaid, valid pre-emption or homestead claims existed upon any lands within the limits of any such grants which afterward were abandoned, and, under the decisions and rulings of the Land Department, were re-entered by pre-emption or homestead claimants who have complied with the laws governing pre-emption or homestead entries, and shall make the proper proofs required under such laws, such entries shall be deemed valid, and patents shall issue therefor to the person entitled thereto.

SEC. 3. That all such pre-emption and homestead entries which may have been made by permission of the Land Department, or in pursuance of the rules and instructions thereof, within the limits of any land grant at a time subsequent to expiration of such grant, shall be deemed valid and a compliance with the laws, and the making of the proof required shall entitle the holder of such claim to a patent therefor.

Mr. SAYLER. I desired to explain the provisions of this bill at length, as it is an important one, but in view of the near approach of the close of the morning hour I abstain from so doing, and only ask that the bill be put upon its passage.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. SAYLER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. GOODIN. I desire to ask unanimous consent of the House, inasmuch as I do not wish to take up the morning hour, to print in the RECORD a few remarks upon the subject of the bill just passed.

There was no objection, and leave to print was granted. [See Appendix.]

PUBLIC LANDS IN SOUTHERN STATES.

Mr. MOREY, from the Committee on Public Lands, reported back with a favorable recommendation the bill (S. No. 2) to repeal section 2303 of the Revised Statutes of the United States, making restrictions in the disposition of the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida.

The bill was read, as follows:

That section 2303 of the Revised Statutes of the United States, confining the disposal of the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida to the provisions of the homestead law, be, and the same are hereby, repealed: *Provided*, That the repeal of said section shall not have the effect to impair the right, complete or inchoate, of any homestead settler, and no land occupied by such settler at the time this act shall take effect shall be subject to entry, pre-emption, or sale: *And provided*, That the public lands affected by this act shall be offered at public sale, as soon as practicable, from time to time, and according to the provisions of existing law, and shall not be subject to private entry until they are so offered.

Mr. MOREY. I think there will be no objection to that bill.

Mr. LAWRENCE. Yes, there is some objection to it.

Mr. HOLMAN. Mr. Speaker, this I believe is substantially the same bill which was before the House some time since, reported as a House bill and proposing to repeal the legislation of some years since in behalf of the homestead system in certain States of the South. If I understand the matter correctly, this bill is of the same character as that. When the House bill that was reported from the Committee on Public Lands was before the House some weeks since, it was objected to because the tendency of the measure was to repeal the homestead provision as applicable to certain Southern States. It was objected to, further, because the tendency of the measure was to monopolize the public lands in that section of the Union at a nominal price.

That is a policy that has been generally discountenanced and condemned by the people of this country.

The objection to this bill, if I understand it correctly, is that it limits homesteads in these States to forty acres, while the general homestead law allows one hundred and sixty acres of land. The objection to this bill is found in the fact that it limits homesteads to so small a portion of lands as forty acres instead of one hundred and sixty acres. If the Committee on Public Lands would report a bill to apply the general homestead law to the States to which this bill has reference, I think it would be exactly right.

To adopt the policy now of abandoning the homestead system and subjecting to sale what remains of the public lands, so that they may be monopolized at a comparatively nominal price by a few citizens, is certainly a very unwise policy. The system of disposing of the public lands of this country by sale was inaugurated at a time when the public domain seemed to be boundless, limitless, and when the needs of the Treasury required that even the small sums for which the lands were sold should be paid into the Treasury to meet the public necessities. But in view of the rapid exhaustion of the public domain and the increase of the landless people of this country and the certainty that their number will largely increase in the future, it seems to me that a policy which will enable a small number of persons to monopolize the public lands at a nominal price is the worst possible policy upon which we can enter, I do not care what the character of the public lands may be.

If there is any well-defined policy in regard to the public lands in this country, as announced by all parties, democrats and republicans of all shades of opinion, it is and has been for several years past the policy that the remaining public lands of the United States should be secured for actual settlers under the benign provisions of the homestead law. I understand from the reading of this bill that these lands are not even subject to settlement under the homestead law until they shall first have been offered at public sale. I admit that up to this time the evils of land monopoly are not felt in this country. The enterprising landless citizen can press forward to the West and still find a home on the public domain. But that state of things is rapidly passing away. What remains of the public domain, as we see from the reports of the Commissioner of the General Land Office, is being rapidly exhausted, not so much for actual homes for settlers, but by the monopolizing of the land for speculation.

Under a Government like ours, where the ownership of land by the great body of citizens seems to be actually indispensable to good government, a policy which would subject the public domain to a system of speculation, and that speculation fostered and encouraged by the Government so as to enable capitalists to acquire land at a merely nominal price, is in my opinion a very fatal policy.

In the confusion which existed in the House at the time this bill was read I may have misapprehended its purpose. I ask that it be again read.

The SPEAKER. The bill will be again read; and the Chair begs members of the House to give attention to the reading.

The bill was again read.

Mr. MOREY. Without desiring to take the floor from the gentleman from Indiana [Mr. HOLMAN] but by his consent, I wish to say, as the morning hour is about to expire, that I propose, having charge of this bill, that it shall be discussed in the morning hours just so long as the House desires to have it discussed, giving the opponents of the bill ample opportunity to present their views and giving the friends of the bill the same opportunity. With that understanding, the gentleman from Indiana still holding the floor, as the morning hour has expired I will call for the regular order.

The SPEAKER. The morning hour has expired.

ORDER OF BUSINESS.

Mr. HANCOCK. I rise to make a report from the Committee of Ways and Means.

Mr. SCALES. I desire to move that the rules be suspended and the House now resolve itself into Committee of the Whole for the further consideration of the bill to transfer the Indian Bureau to the War Department.

Mr. RANDALL. I desire to raise the question of consideration in regard to that bill; or rather I move to amend the motion so that the rules be suspended and the House now resolve itself into Committee of the Whole for the further consideration of the legislative, executive, and judicial appropriation bill.

The SPEAKER. The Chair recognizes as first entitled to the floor the gentleman from Texas, [Mr. HANCOCK.]

HERMAN HULMAN.

Mr. HANCOCK. I am directed by the Committee of Ways and Means, to which was referred the bill (H. R. No. 256) for the relief of Herman Hulman, of Terre Haute, Indiana, to report the same back with an amendment filling the blank in the bill, and to recommend that as amended the bill do now pass. I will state that this is the unanimous recommendation of the Committee of Ways and Means.

The bill directs the Commissioner of Internal Revenue to allow the amount of the claim filed by Herman Hulman, of Terre Haute, Indiana, for abatements in his office for the sum of $———, as the abatements asked for by him are right and proper, and he should not be required to pay that amount to the Government.

The amendment reported from the committee was to fill the blank with the sum of $1,809.41.

The question was upon agreeing to the amendment of the committee.

The report was read in part, when,

Mr. HOLMAN said: I learn by the report, so far as it has been read, that this bill proposes merely to remedy a mistake of the deputy assessor, and my colleague, [Mr. HUNTER,] representing that district, has assured me that he is familiar with all the facts involved.

Mr. HUNTER. The difficulty all arises out of a mistake of the officer.

Mr. HOLMAN. I am satisfied without further reading of the report. I apprehended that the question involved might be of general application.

Mr. HUNTER. No, sir; it merely arises out of the mistake of the officer.

The amendment reported by the committee was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HANCOCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

A bill (S. No. 293) authorizing the commissioners of the District of Columbia to cancel and annul the condemnation of the ground in square 762 in the city of Washington for a public alley, and for other purposes;

A bill (S. No. 336) to authorize the construction of a ponton-bridge across the Mississippi River from some feasible point in La Crosse County, in the State of Wisconsin, to some feasible point in the State of Minnesota; and

A bill (S. No. 435) to amend section 5546 of the Revised Statutes of the United States providing for the imprisonment and transfer of United States prisoners.

The message further announced that the Senate had passed without amendment:

A bill (H. R. No. 726) changing the name of the steamboat Charles W. Mead.

The message further announced that the Senate had passed bills of the following titles with amendments; in which he was directed to ask the concurrence of the House:

A bill (H. R. No. 1922) providing for the recording of deeds, mortgages, and other conveyances affecting real estate in the District of Columbia; and

A bill (H. R. No. 2951) to provide for the separate entry of express packages contained in one importation.

ORDER OF BUSINESS.

Mr. SCALES. I move that the House resolve itself into the Committee of the Whole to resume the consideration of the special order, the bill transferring the Indian Bureau to the War Department.

Mr. RANDALL. I move to amend that motion so as to provide that the House resolve itself into Committee of the Whole on the legislative appropriation bill.

Mr. SCALES. Can that amendment be made while I am on the floor?

The SPEAKER. The question will be first upon the motion of the gentleman from North Carolina, [Mr. SCALES;] if that should fail, the motion of the gentleman from Pennsylvania [Mr. RANDALL] will then be voted upon.

Mr. RANDALL. I will say to the gentleman from North Carolina that as the remarks of the gentleman from Georgia [Mr. COOK] were not completed yesterday I do not wish to tear his speech in half. Therefore, if the gentleman from North Carolina will consent to this compromise, I will agree that the gentleman from Georgia be allowed to finish his speech to-day and that we then proceed with the consideration of the legislative appropriation bill. This is the course dictated by courtesy, and I do not wish to depart from it.

The SPEAKER. As both bills are under consideration in the Committee of the Whole, the Chair would suggest that the gentleman from Georgia might speak in either committee.

Mr. RANDALL. The difficulty is that the legislative appropriation bill is being considered under the five-minute rule.

The SPEAKER. That makes a great difference.

Mr. SCALES. In this matter I am acting as the organ of the committee. I feel that we have done all that we can for the gentleman from Pennsylvania. We have voted for night sessions and we have devoted a great deal of time to the appropriation bills. Now the gentleman cannot advance a step until this bill is acted on. It must be debated and the question decided or we cannot go through with the appropriation bill.

Mr. RANDALL. The motion which I make leads to practical legislation; it reaches its results as it goes step by step, while the motion of the gentleman from North Carolina will perhaps involve ten or fifteen speeches, so that the debate may continue for hours.

Mr. SCALES. The saving of $3,000,000, which I believe the gentleman concedes will be accomplished by the transfer of the Indian Bureau, is, I think, a practical result.

Mr. RANDALL. Yes, sir; I believe the proposition of the committee on this subject to transfer the Indian Bureau will save $3,500,000.

Mr. SCALES. That is a very practical result.

Mr. COX. Well, that is a question which ought to be discussed.

The SPEAKER. The question will be first taken on the motion of the gentleman from North Carolina [Mr. SCALES] that the House resolve itself into Committee of the Whole on the bill for the transfer of the Indian Bureau.

Mr. RANDALL. With the understanding that, if that motion be voted down, I will yield sufficient time to enable the gentleman from Georgia [Mr. COOK] to complete his speech. If the motion of the gentleman from North Carolina is not voted down, then the legislative appropriation bill must go over.

Mr. SCALES. The sense of the House on this question might be tested after the gentleman from Georgia has finished his remarks.

Mr. RANDALL. We might as well test the question now as then.

The question being taken on the motion of Mr. SCALES, there were—ayes 83, noes 86.

Mr. SCALES. I call for tellers.

Mr. RANDALL. I call for the yeas and nays. We may as well settle the matter at once.

Mr. GARFIELD. I desire to call the attention of the chairman of the Committee on Appropriations to a single point which, when stated, he will I think recognize as worthy of consideration. If we go on with the legislative appropriation bill, we come pretty soon to a clause providing for the transfer of the Indian Bureau.

Mr. RANDALL. We do not do any such thing.

Mr. GARFIELD. Well, the courtesy and gentleness and urbanity of my friend from Pennsylvania are such that it is hardly necessary for me to reply to his remark.

Mr. RANDALL. I did not mean any discourtesy at all.

Mr. GARFIELD. Do we not in the legislative bill come to this question of the transfer of the Indian Bureau; and when we reach it, must it not be decided under the five-minute rule?

Mr. RANDALL. That is the fourth section of the bill; and it is not probable we shall reach that to-day.

Mr. GARFIELD. But I speak of the general policy of going on with that without hearing the Indian Committee. It seems to me we ought to have a pretty full debate on that question—such a discussion as we cannot have under the five-minute rule. This is the reason I think we ought to allow the Indian Committee to have their measure discussed.

Mr. RANDALL. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 134, nays 94, not voting 62; as follows:

YEAS—Messrs. Adams, Ainsworth, Ashe, George A. Bagley, Ballou, Banks, Banning, Blackburn, Blaine, Blair, Bliss, Boone, Bradford, Bradley, Bright, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Cabell, John H. Cald-

well, William P. Caldwell, Cannon, Caswell, Cate, Caulfield, Chittenden, John B. Clarke of Kentucky, Conger, Cook, Cowan, Cox, Crapo, Culberson, Darrall, Davis, Davy, Denison, Dibrell, Dobbins, Dunnell, Durand, Durham, Eames, Egbert, Ellis, Evans, Faulkner, Felton, Forney, Fort, Franklin, Frost, Frye, Garfield, Gibson, Glover, Goode, Goodin, Hathorn, Haymond, Hendee, Henderson, Hill, Hoar, Hoge, Hooker, Hoskins, House, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kimball, Lapham, Lawrence, Lord, Maish, McFarland, Metcalfe, Miller, Mills, Money, Monroe, Morey, Morgan, Nash, Norton, Odell, Packer, Page, Parsons, Payne, Piper, Plaisted, Platt, John Reilly, Rice, William M. Robbins, Roberts, Robinson, Sobieski Ross, Rusk, Sampson, Scales, Schleicher, Schumaker, Seelye, Sinnickson, William E. Smith, Strait, Terry, Thompson, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, John L. Vance, Robert B. Vance, Gilbert C. Walker, Walsh, Warren, White, Wigginton, Alpheus S. Williams, Charles G. Williams, Jeremiah N. Williams, William B. Williams, Woodburn, and Young—134.

NAYS—Messrs. Anderson, Atkins, Bagby, John H. Bagley, jr., John H. Baker, Bell, Bland, Buckner, Campbell, Candler, Cason, Chapin, John B. Clark, jr., of Missouri, Cochrane, Crounse, Cutler, De Bolt, Douglas, Foster, Freeman, Fuller, Gause, Gunter, Hale, Andrew H. Hamilton, Robert Hamilton, Hancock, Henry R. Harris, John T. Harris, Hartridge, Hartzell, Hatcher, Henkle, Goldsmith W. Hewitt, Holman, Hopkins, Thomas L. Jones, Kehr, George M. Landers, Lewis, Lynch, Lynde, L. A. Mackey, Magoon, MacDougall, McCrary, Milliken, Morrison, Mutchler, Neal, New, O'Brien, Oliver, O'Neill, Phelps, John F. Philips, Pierce, Poppleton, Potter, Pratt, Randall, Rea, Reagan, Riddle, John Robbins, Savage, Singleton, Slemons, Southard, Springer, Stenger, Stevenson, Stone, Tarbox, Teese, Thomas, Turney, Wait, Waldron, Charles C. B. Walker, Walling, Ward, Erastus Wells, Wheeler, Whitehouse, Whiting, Wike, Willard, Andrew Williams, James Williams, Willis, James Wilson, Woodworth, and Yeates—94.

NOT VOTING—Messrs. William H. Baker, Barnum, Bass, Beebe, Blount, John Young Brown, Burleigh, Clymer, Collins, Danford, Eden, Ely, Farwell, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hays, Hereford, Abram S. Hewitt, Hunton, Hurd, Jenks, Frank Jones, Kelley, Ketchum, King, Knott, Lamar, Franklin Landers, Lane, Leavenworth, Levy, Luttrell, Edmund W. M. Mackey, McDill, McMahon, Meade, William A. Phillips, Powell, Purman, Rainey, James B. Reilly, Miles Ross, Sayler, Sheakley, Smalls, A. Herr Smith, Sparks, Stowell, Swann, Waddell, Alexander S. Wallace, John W. Wallace, Walls, G. Wiley Wells, Whitthorne, James D. Williams, Wilshire, Benjamin Wilson, Alan Wood, jr., and Fernando Wood—62.

So Mr. SCALES's motion was agreed to.

During the vote,

Mr. JAMES B. REILLY stated that he was paired with his colleague, Mr. WOOD, and not knowing how he would vote if present, he would refrain from voting on this question himself.

Mr. RUSK moved by unanimous consent that the reading of the names be dispensed with.

There was no objection, and it was ordered accordingly.

The vote was then announced as above recorded.

TRANSFER OF INDIAN BUREAU.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. BLACKBURN in the chair) for the further consideration of the bill (H. R. No. 2677) to provide for the transfer of the Office of Indian Affairs from the Interior to the War Department.

The CHAIRMAN. The gentleman from Georgia [Mr. COOK] is entitled to the floor to conclude his speech.

Mr. COOK. Mr. Chairman, when the House adjourned yesterday evening I was reading the evidence of the Indians in behalf of themselves and against the recklessness and faithlessness of the agents employed by the Government. I will read this morning from a statement of one or two others as furnished to the commissioners who went among them.

I will read from the seventh annual report of the Indian commissioners for the year 1875.

The gentleman from New York [Mr. COX] held that this was a peace commission, having the greatest influence in christianizing and civilizing the Indians. The only conclusion to be drawn from all this testimony of the Indians themselves is directly to the contrary. Every Indian heard from, so far as I know—the universal testimony of chiefs and individual members of Indian tribes—is that they have been swindled; that they have been defrauded in the most shameful and outrageous manner. They say that the clothing which they get is of the most inferior and worthless character; that the money appropriated for them, specifying the years and the amounts, they have never seen. Now it must be perfectly manifest these Indians believing and entertaining this view of these men who have control of them as Indian agents never can christianize them. No man can be civilized and christianized by men he regards as thieves and plunderers.

I am glad to see present to-day the gentleman from Tennessee, [Mr. YOUNG,] who wished to hear what the Indians had to say for themselves.

I propose to read now from the testimony of Ignatius Hole-in-the-Day. This communication is from White Earth reservation, Chippewa tribe of Indians, and is addressed to "the honorable Congress of the United States of America," and forwarded by Charles Ewing, Commissioner of Indian Affairs:

To the honorable Congress of the United States of America:

We, the undersigned, chiefs of the Chippewa Indians, at White Earth reservation, would respectfully represent to your honorable body that we are all greatly dissatisfied with the course pursued by the present agent of the White Earth reservation, and desire the management of this agency transferred to the Roman Catholic church.

We make the request at the earnest entreaties of our respective bands, who unite with us in this petition.

The reasons upon which our request is based are as follows:

First. Our present agent has uniformly used the most unjust discrimination in distributing our annuities and supplies, and has failed to pay over to us large sums of money that are rightfully our due.

Second. We have never been consulted by him as to the manner in which the money left in his hands to be expended for our benefit should be laid out, and our rights have been violated in thus debarring us from having any voice in such matters.

Third. Our people are suffering most severely and are in great danger of losing their lives by freezing, as the clothing which should have been distributed among them has not been issued only in exceptional cases.

Fourth. We have in many instances performed labor for the agency for which we were to have been paid in supplies, and the supplies were issued; but instead of their being considered by the agent as payment for labor, they stand charged to each individual Indian who drew them, as the books of the agent will show to-day.

Fifth. We are all of the Catholic faith and have greater confidence in that denomination than any other, and believe that our rights will be more respected and our interests better served by their management than they would under the management of any other sect or denomination.

We would further show to your honorable body that we have been heretofore greatly imposed upon in the matter of papers purporting to be an expression of our feelings, such papers having fictitious signatures attached thereto; but in this instance our wishes are correctly expressed and our signatures are genuine and true, and we perfectly understand what we are doing.

This, sir, is an outrage. The accusation is made against the Indian agents and the whole Bureau, of excluding them from all care and protection, and especially of withdrawing them from their own religious teachers and placing them under teachers of an entirely different faith.

He says again:

We do not see why they should steal from us and use us as they have heretofore daily done. They are surely not so instructed to do by God's Holy Book, hence our decision is to leave them and flock to the true followers of Christ, who are the Catholics, as they have never been known to steal anything. We humbly beseech our Great Father to remove our officials and replace them by true Roman Catholics.

So outrageous was the conduct of these agents among them professing the Protestant faith that they actually drove them to the care and custody of the Catholic priests and the Catholic Church.

They say again:

On the 1st of July, 1874, there was appropriated $28,000 for the benefit of my people here on our reserve, but instead of our getting any assistance from this money, we are told that he, the agent, has only received $3,000 of this money, and that he has already spent all this; but still we cannot see in what way, for we are to-day poorer and more pitiful than we have ever been, being compelled to be self-supporting without least means of implements.

That, sir, is the accusation in that petition. Here is the complaint of another Indian chief, who has a name I will not undertake to pronounce for fear of the lockjaw. It is in this same Commissioner's report. This is what he says of their agent:

He injured our people a great deal, because he keeps back from us what you send us. This was surely not your intention when you sent him here. One hundred and twenty Indians did not get their pay last fall. But we saw him; he had their money in his pocket. Therefore we pray you most earnestly to take this agent away.

Now, here is what another band of Indians say:

1. That their money is taken from them by the agent, who is countenanced in this by Bishop Whipple and Preacher Johnson.

I do not know what preachers these are, or to what churches they belong.

2. That the above named are working hard and secretly to sell the pine lands of the Indians against their will.

3. That the Pembina Indians are moving on their reserve without having yet paid any part of what they had agreed to pay.

4. That the agent is building a new saw-mill, and that his intention is to use it to saw their pine-logs and sell them for his own profit.

5. That if they do any work they are not paid in money, but only in old clothes from Bishop Whipple's hospital.

6. That they have to pay the agent for everything they get from him, i. e., clothes, calico, &c., though the treaty provides that many things should be given them and not sold.

7. That there are Indians on the reservation who have not received the payment of their annuities for two years.

8. That many Indians, even chiefs, are still living in wigwams of birch-bark, because the agent refuses either to build them houses or to give or lend them oxen to enable them to haul logs and lumber to build the houses themselves.

Now, sir, I will read what Little Bear said. This is in the report of the Commissioner of Indian Affairs for 1875:

From this on we want our Great Father to help us; give us a great deal more than we get now. What we get does not go around. After this, when our Great Father sends us annuity goods, we would like to get a list of them, so that one of our own men can look over it. Tell this to the Great Father. When you help me to all that I will think over what you ask me.

They do not want to trust these agents. They want a list of the goods, and they want one of their own race and their own blood to examine that list and see that they get the goods.

Now, here is what Fast Bear says. No man, I do not care who he is, could have put more in fewer words than this Indian when he spoke of the treatment the Indians were receiving.

The beef-cattle that the Great Father has issued to me, no doubt each steer has been weighed twice and called two, and some of them have been put away somewhere else, and I wish the Great Father would track them up.

I say the expression of the manner in which they have been swindled, and of their contempt for these men who dispose of their goods and annuities for them, could not have been put in more forcible or stronger language by any gentleman upon this floor.

Then Flying Bird says:

From this treaty on, every time the Government delivers an annuity to our agents, we shall choose a half-breed who lives among us. The chiefs must take this list and give it to that man, for we well know that there are many rats between here and the Great Father's door. But if our Great Father only knew he would go on and drown them out, and find many rat-heads all the way.

There is another Indian stating in his homely phraseology, but in a forcible, logical manner, that the rats consume their money, and their clothing, and their provisions between the Great Father and the Indian agent. And they are the men to whom my friend from New York [Mr. COX] would commit these people.

If gentlemen will look into the present appropriation bill, amounting to $5,778,000, they will see a large amount asked to be appropriated for farmer's tools and farming utensils, and for a number of laborers to work for these Indians, and especially for the Sioux Indians. They take great credit for what has been done among these Indians; but the productions and the stock which have been raised among the Indians belong to the tribes that were civilized in 1849, when this Bureau was taken from the War Department. I have got the evidence here, which I will read, from men familiar with the history of Indian affairs, that will show there is not a civilized tribe of Indians to-day that were not civilized in 1849. We are asked now to appropriate perhaps $150,000, or $300,000, or $400,000 to aid in the development of agriculture among these people. I want to show from the reports of this commission and the commissioners who visited this Territory what they think of it:

From all the evidence derived from agents, employés, and the Indians themselves, the commission is of opinion that the annual value of all the products secured by a cultivation of the soil by the Indians at the several agencies would not exceed $5,000 per annum for the last six years. In this estimate we do not include the products of the Santees or the Yanktons, neither of which tribes resides on the Sioux reservation. And the commission is of opinion that, if the present policy is continued—

That is to appropriate money and hire laborers for them—

the results of the next six years will not differ materially from those of the last. Indeed, the commission very much doubts whether enough has been raised in the aggregate to re-imburse the annual appropriations made for the salaries and expenses of the farmers employed by the Government at the various agencies.

You appropriate thousands and hundreds of thousands of dollars for farms, and here the commission, at the end of six years, say they have not raised enough to pay their expenses. And the testimony of General Sherman, General Ord, General Terry, General Sheridan, and of every man familiar with the country, and of the commission that went there is that the 2,500,000 acres of this reservation for the Sioux tribes is wholly and utterly unfit for any agricultural purposes. And yet we are asked to teach these people the science of agriculture. We are invoked to appropriate money for that purpose, and to send them laborers, common laborers. And I shall show you before I get through the number and what it costs to send them. And yet the commission say that the land where they have been located is wholly and utterly unfit for agricultural purposes. That shows in this matter the grossest and most woful and most infamous mistake or fraud, and the only reason ever assigned for it by any witness before the committee was by General Sheridan, who stated that no human being upon the face of the earth was benefited by the removal of these Indians from the Missouri River to the Red Cloud and Spotted Tail agencies except the contractors. They are the men who profit by it.

The commission say:

There are at Red Cloud and Spotted Tail at least twenty thousand Indians now subsisted and cared for by the United States. Our observation leads us to the conclusion that the character of this region is such that farming operations are impracticable, even when conducted by those familiar with the best methods. Small tracts could be made productive by means of expensive irrigation, but the volume of water is not sufficient to irrigate on an extensive scale, even if the country were suitable.

These gentlemen of the commission say further:

For the reasons just stated, and for others equally obvious to any who will visit their country, but not within our province to discuss, no progress whatever has been made toward civilization or self-support at either of these agencies, or among the tribes receiving their rations and annuities at these agencies, during the last six years, unless we should call progress that dependence which makes the Indian rely upon the Government rather than the chase, or labor for the necessaries of life. During these six years, whatever of food, clothing, or shelter they have had has been provided by appropriations from the national Treasury, and the Indians have done absolutely nothing but eat, drink, smoke, and sleep, except indulging each day in the healthful exercise of horseback riding, (each Indian having at least one pony,) and at intervals, for diversion, engage in a hunt to the north or south.

That is the condition of our wards. That is the location in which they have been placed by our agents. That is the progress they have made at the end of six years in civilization. "They eat, drink, sleep, and take horseback exercise, while the white men that we employ to labor for them are attempting to cultivate the waste, arid, and worthless soil, which is wholly unproductive." Is that the way in which the people of the country expect, when they pay taxes to support these people, that they are to be appropriated? Is that the way the money is to be expended? Is it common honesty?

If we are bound by the testimony of our own commission, of the Commissioner of Indian Affairs, of the Indians themselves, and by the unbroken chain of evidence of every Army officer who has ever been among these people, I say we ought to break up the system.

I come now to reply to so much of the speech of the gentleman from New York [Mr. COX] as went to show that troops are not needed among these Indians; that they are not wanted either by the Indians or by the agents. General Sheridan, in his testimony before the committee, said that he had applications from four Indian agents themselves to establish as many military posts in order to protect those Indian agents.

Who is the better able to judge whether the military are needed at these agencies, the Indian agents themselves or the gentleman from New York? Who best understands what power will control these Indians, the gentleman from New York, drawing his morals and opinions of Indian policy from the morals of Tammany Hall, or the men stationed upon the frontier, whose sworn duty it is to protect, not only these Indians, but the white settlers? Here is what the Commissioner himself says in reference to the influence of troops upon these Indians, and I ask the attention to it of gentlemen who are opposed to the presence of troops among the Indians:

The fact of the presence of troops within the Territory has, however, exercised a moral effect of which agents have availed themselves in keeping order without calling for actual interference by the soldiers; and there is little doubt that Sitting Bull and his followers among the northern Sioux have been restrained from overt acts by the fact of military posts being stationed on the Upper Missouri.

Now I will read what the agent of the Flathead agency in Montana Territory says:

Under date of August 6 last the governor of Montana complained that certain Flatheads were roaming over the settlements without escort, causing fright and committing depredations. The whole correspondence on the subject was submitted to the Department for instructions, under date of August 16. I believe the establishment of a military post in the vicinity of this reservation to be an urgent necessity. An outbreak on the part of the strange Indians coming over the mountains annually has long been feared by the citizens; and, although the Indians belonging to my agency are considered peaceable, it is not known at what time they may enter into a combination with the non-treaty Nez Percés, Spokanes, &c., and cause serious disturbance, as has been the case with other equally peaceable tribes. But, setting aside all danger of hostility, I still believe a company of soldiers to be a necessity, to keep roving bands of Indians from leaving their reservations, and thus exercising a salutary influence toward their civilization. An Indian will naturally work rather than starve, and, confined within the limits of his proper country, he would have to turn his attention to some industrial pursuit.

I could read other views of Indian agents establishing the same facts, but I do not care to consume the time of the House now in doing so. I will call the attention of the House, however, to a few statistics connected with these Indians. Here is the statement of the Commissioner of Indian Affairs in reference to the depredations among these Indians: The number of Indians killed during the year 1875 are: by members of the same tribes, 30; by hostile Indians, 27; by United States troops, 30; and by citizens 23—making a total of 110—of whom 57 were killed by Indians. The number of white persons killed by the Indians was 54 males and 27 females. Where the various Indian tribes are at peace with the United States the military have been called upon to establish military posts and to send troops for the purpose of protecting these tribes, not against the soldiers, not to protect the whites against Indians, but to protect the Indians from the larger and superior tribes who have been their traditional enemies for centuries. I will refer gentlemen to the evidence taken of the names of tribe after tribe who have to be protected as white citizens do against the hostilities of the Indians.

I will now read from the evidence of a number of officers of the Army as to the propriety of transferring the Indian Bureau to the War Department, both as a matter of justice to the Government and of humanity to the Indians. That testimony will confirm in every particular every charge made against the Indian agents as to their thieving. General De Trobriand says, in reference to the transfer:

I have no doubt that such a measure would be both eminently proper and beneficial. The present Bureau of Indian Affairs is a Pandora's box, whence endless evils issued and are still issuing. The greater part by far of our difficulties with Indians arise from the shameless way in which they are cheated out of the most of the annuities of all kinds which they are supposed to receive from the Government, and for which the people pay in full. It would be a great error to believe that because they do not know how to read and write those Indians are unable to keep good accounts and to figure exactly to what extent they are cheated. I have heard Indian chiefs who could tell me how many sacks of flour, how many flannel shirts, how many blankets, how many knives, &c., had been taken away from the agency where they had been stored for them; on what nights these goods had been loaded on wagons, the number of which they stated; to what distant posts the stolen articles had been sent, there to be sold in retail by traders to some other tribes. Many times they asked me why I could not take control of the distribution of their goods among them, unable to understand how their Great Father in Washington, who kept so many warriors, could not secure them their rights and save them from being plundered year after year by those very people who were sent especially for their aid and protection. The general corruption which prevails in Indian affairs is a matter of public notoriety, and has been, in some cases, demonstrated by irrefutable evidence.

The above is therefore stated, not to criminate anybody in particular, but only to show that I speak of my personal knowledge, not from hearsay. As all efforts have been unvailing to remedy those evils with the present organization of the Bureau of Indian Affairs, it has become necessary to try some different system to realize the reforms so much needed, and it does not appear that there is any other which could attain that end but the transfer of the Indian Bureau to the War Department. The administration of Indian affairs could not be trusted to better hands. The officers of the Army do not desire it. They understand well that such a transfer will bring to those who will be concerned in it much more trouble and labor than credit or compensation. But their devotion and their patriotism would make them accept their new responsibilities and perform these new duties in the same spirit and with the same efficiency which have maintained so high the integrity and the honor of the United States Army.

Colonel Van Vliet says:

In reference to transferring the Indian Bureau to the War Department, I would beg to state that I am now and have been for years strongly in favor of such transfer. The advantages are so obvious that it is hardly necessary to give any reasons for it. I have served among the Indians in Florida and on the plains for many years, and have given considerable attention to the government of the Indians, and it is my firm belief that they would be governed more efficiently and economically by the Army than they are at present. Indians are governed to a great extent through their fears, and an officer with two or three troops of cavalry at his back is a great deal more respected than is an agent with no power. We have in the Army all the machinery at hand to take care of the Indians without additional cost. The Commissary and Quartermaster's Departments could furnish them with all their supplies without any increase in their force. By placing the Indians in charge of the War Department all chance of a conflict of authority between two co-ordinate Depart-

ments will be avoided, and the Indian will more readily understand what is required of him. I was with General Harney in his Sioux expedition in 1856, and while we were fighting the Indians on the Platte River the Indian agents were issuing arms and ammunition to them on the Arkansas.

Captain Corbin, who is stationed among the Indians, says:

Of course there are some good Indian agents, and some of them have had a great deal of influence with the Indians; but as a general thing, when any serious question has come up among the Indians where I have been stationed, when the agents have told them the wishes of the "Father," (as we call the President on the frontier,) they invariably go and ask an Army officer whether it is true or not, and I think if you will bring the agents here they will tell you the same thing. The Indian's idea of the Army officer is that he will tell the truth and deal with him honestly; that if he is going to hang him he will tell him so; and, if he is going to provide him a home, he will tell him the truth about it; while, on the other hand, they look on the agent as a sort of speculator. I know that was the case with the Navajoes and the Arapahoes. I believe the Navajoes are about the largest tribe we have now. We moved them from the Fort Sumner reservation a number of years ago farther west, and there was a number of agents employed there, and they did some good, but in any case of trouble the Indians will always come to an officer of the Army.

Here is what General Jeff. C. Davis says; he has a C. in his name, and that gives him credit in this House:

The Indian Bureau has of recent years become a synonym for rascality and corruption. I do not think, however, the officers of the Army, as a general thing, covet the responsibility this charge would place upon them, but they can and will, with proper encouragement, perform the task with more efficiency, honesty, and with less hypocritical cant about christianizing and civilizing the Indians, than is now done. The military can teach the Indians how to lay down the rifle and take up agricultural implements and use them; this done, and our honest and sincere Christian workers will see to it that civilization and christianization follow right along as the savage is prepared for these blessings.

General Sykes testifies as follows:

It seems superfluous to repeat that the Indian respects only the power of hunger and the power of the sword; and it is notorious, outside of the "Indian ring," that the word of an officer of the Army will be trusted by an Indian beyond that of any other white man. It arises from two causes: the one, that an officer rarely makes a promise to them that he cannot perform; the other, that he represents the force, which, to an Indian, appeals more than any other to the instincts of his own existence. I have had considerable experience with a large tribe of Indians on a military reservation in New Mexico, (Navajoes,) and had very little trouble with them. I carried out the promises of the Government in their behalf, and rarely called upon them to do an act of justice which they were not prompt to recognize and enforce. Most of our trouble with the Indians would cease were their annuities honestly distributed, and treaties with them faithfully carried out. Everybody knows this who know anything on the subject.

I will close my extracts from the testimony of the Army officers by referring to what was said by General Sanborn. He says:

There is really no progress made, that is perceptible, with the uneducated or wild Indians, under this system. The civilized tribes of to-day were civilized Indians in 1849, when the transfer was made from the War Department to the Interior Department, and there is scarcely a tribe that our civilization has come in contact with during the twenty-seven years that the Interior Department has administered Indian affairs that has not as a tribe been annihilated and disappeared. Civilization under that system, of an Indian tribe as a tribe, I consider impossible. Nearly all the tribes on the Pacific coast have disappeared. The Modocs have disappeared within the last two or three years under that system. There is a loose, careless management of the Interior Department which is necessitated from a lack of force, unless the military is near at hand; and that encourages these savages to outbreaks and disregard of the authority of the Government, which, in the end, must be repressed by an absolute military campaign, and by that time the Indians have become so encouraged that they fight with confidence and with all the zeal of savages, and of course, as a rule, they are nearly annihilated by the superior power of the Government, which, of course, ultimately must succeed in all cases.

I have not visited the Sioux Indians of the plains since we closed our treaty with them in 1868; but I am informed by General Terry, whose headquarters are at Saint Paul, and who was on the commission that visited them this year, that during the eight years that have elapsed since that treaty there has been no perceptible progress in their disposition to try to help to support themselves, or to obey the requirements or follow out the purposes of the Government, but that, if anything, they are more savage and barbarous now than they were then, although the Government has expended, under the provisions of that treaty, from a million and a half to two millions annually, and which we fully expected at the time would, in five years, carry them so far along that they would become at least successful herders, and be able to raise at least enough meat to support themselves, in a good grazing country like that south of the Arkansas, which we looked forward to as the permanent home of the Indians, regarding that as a temporary arrangement; so that I am, and have been, since giving a thorough examination to the whole question, hopeless of our being able to civilize any of these large Indian tribes, the Sioux or the Apaches of Arizona, under the present system. As a nation, their annihilation is as inevitable as doom under the present system; while I have full belief that if the Army had control so that the presence of power would be always felt by the Indians, and the consequent obedience to the purposes and plans of the Government secured, they would become a civilized people, productive as herders, and we shall always need a large population of that kind on the plains—for they are suitable, generally speaking, for no other purpose, and will subserve no other great end in the economy of this Government—a large portion of that country.

In regard to the economy of the service, I believe there would be a large saving in the procuring and issuing of supplies. I think that in the expenditure of six or eight million dollars for supplies there would be a saving of from a million to a million and a half in the cost of transportation. I think that active campaigns in the field, which now occur every two or three years, would be entirely avoided. I have no doubt but that the entire expenses of these campaigns would be avoided. If the Army had full control the Indians never would be encouraged to resist the power and authority of the Government to such an extent as to take up arms against our people at all, and in that view comes the saving. On an average, it would amount to from six to ten millions a year. I am confident that from 1860 to 1870 the expenses of the military establishment were increased annually, on account of our Indian difficulties, to the amount of ten millions on an average, or one hundred millions during the decade. This estimate includes the campaign in Minnesota, the campaign in New Mexico against the Navajoes, and the campaign on the Arkansas, closed out by myself in 1865, in doing which I had under my command seven thousand mounted men and one or two regiments of infantry; and they were supported at an expense that was really alarming, corn at many of those posts being purchased, at the time I arrived there and took command, at $8 a bushel, an expense so great that I concluded it was better to procure a remount every ninety days than to try to keep horses alive by purchasing forage at those rates. I can but consider it, after the study I have given it, as one of the most perfectly one-sided questions connected with the public service, as to where that Bureau should be.

* * * * * * *

Q. Do the agents ever turn over beeves on the foot to the Indians so that they can drive them off?

A. Frequently; at least I think so. I have looked at this question very closely and have given it a great deal of study, and my impression is that the transfer of the Indian Bureau to the War Department, by dispensing with civilians whose duties can be performed just as well by officers of the Army—my impression is that the saving in that alone will be $1,500,000. My impression is (and I think I have seen enough of these matters in the last fifteen years to enable me to come to a correct conclusion) that it will save in supplies furnished that never reach the Indians at all fully $500,000; that makes two millions. It will save in the administration of the Army directly, by enabling them to bring the Indians down to navigable highways where supplies can be distributed without the monstrously expensive transportation that is now necessary, fully $3,000,000, making $5,000,000. Take, for instance, the Red Cloud and Spotted Tail agencies, the two largest agencies on the continent, I believe; it costs as much to haul the flour from the point where it is landed on the Missouri to those agencies as it costs to purchase the flour. The distance of those agencies from the river is about three hundred miles, and they are in a poor country, whereas the country on the river is pretty good. In addition to that, our Indian wars for the last twenty years have cost $120,000,000, over $6,000,000 a year, and we are just as sure to be afflicted again with that enormous expenditure as we have been in the past if we continue the present system. Therefore you may add $6,000,000 to the $5,000,000, which will make a saving annually of $11,000,000 by turning the Indians over to the War Department.

I think that our Indian wars have been the direct results of the miserable policy that has prevailed under the civil administration of Indian affairs. Now we have the officers already paid for doing all the duties that are discharged at present by the agents. The surgeon at the post can prescribe for the Indians, and the labor that is to be paid for now can just as well be performed by the soldiers who will be called in at the military posts to aid the quartermaster and the commissary in making their issues. Of course you have to have a head farmer, a head blacksmith, a head carpenter, and where there is a mill, a miller, but all the balance of the labor can be done just as well by the Indians, provided you have force enough at the posts to enable the agent to compel obedience to his orders.

The gentleman from New York, whom I am endeavoring in a feeble way to follow, attributed all the Indian wars to the Army—to the soldiers. I want to show him how badly mistaken General Sheridan, and General Sherman, and General Ord, and General Marcy, and a number of other generals are in their recollection and knowledge of the cause of these Indian wars. General Ord testifies that his father was an Indian agent for a number of years, and nearly all the time under the War Department. He says:

It ought to be entirely transferred, and, as far as practicable, under the control of permanent officers of the Army. It was formerly under the control of the War Department, and officers were sometimes assigned to temporary duty in the Indian Bureau as *ex officio* agents. My father was an Indian agent for fifteen or sixteen years; under the War Department nearly all the time.

He then refers to the two agencies, the Red Cloud agency and the Spotted Tail agency. He says:

I came on here to Washington—

He had been applied to by an Indian agent to furnish more troops, not that they were needed by the Army or by the Indians, but the agent applied for them. He says:

I came on here to Washington and got an appropriation to build up the post; and I had some conference with the Indian Committee, in order to satisfy them that the Indians could not be taken care of without the military. The agent had come to me and applied for a guard, and insisted upon it, saying that his agents had been murdered, and that he could not get anybody to live with the Indians unless they had the military right alongside of them.

Here is what he says about the Modoc war; and this will answer a part of the report of the minority, which charges the responsibility for that war somewhere else. He says:

I have some little knowledge of the Modoc war, Florida wars, Rogue River war, and other wars. I have been in some half-dozen of them. They nearly all originated from mismanagement of the Indians. I believe the Modoc war originated because certain parties wanted to get possession of the Indian lands, and wanted to move the Indians down to where the Klamaths were. The Klamaths were a large tribe on the lower river, and outnumbered the Modocs probably twenty to one.

He goes on to say that if the agent had been a military man he would have known that it would not do to undertake to move those Indians with only a handful of men:

The Modocs did not want to go to the Klamaths, because the Klamaths, being a very large and overbearing tribe, would not let them have any show in the distribution of supplies. The Indians made some representations in regard to it, but they all seemed to be ignored by the Indian Department. The Department seemed to take it for granted that all that was needed to force them to go was a military guard. The handful of men were attacked and driven back. The agent asked for a little larger force, which was still insufficient, and found difficulty—the Modocs taking the war-path, as they say. Whereas the difficulty could have been avoided if there had been a military man in control, and he would probably have had a sufficient military force immediately at hand.

[Here the hammer fell.]

Mr. SEELYE obtained the floor.

Mr. COOK. I ask the gentleman from Massachusetts [Mr. SEELYE] to yield to me five minutes.

Mr. SEELYE. I will yield the gentleman that much of my time if he so desires.

Mr. COOK. I thank the gentleman; and I do so the more cordially, because I want to reply to a part of the minority report. That report states that General Sherman, General Harney, General Terry, General Augur, and a number of others have expressed their opinion against this transfer. But whatever they may have reported in 1868 has long since been taken back by those men. The report says further that while this question has frequently been before Congress, that body has always refused to pass upon it. Now, in 1868 this House passed an act by a large majority, including the gentleman from Maine, [Mr. BLAINE,] the gentleman from Massachusetts, [Mr. BANKS,] the gentleman from Ohio, [Mr. GARFIELD,] and a number of other distinguished gentlemen upon this floor.

I desire especially to ask attention to one passage of this report. I had hoped that there might be presented here in this House some measure in the discussion of which the southern people would not be slandered, traduced, or vilified. But in this minority report I find to my utter astonishment this language, in reference to placing the military over the Indians:

The people of our Southern States, since the late civil war, have made grievous complaints of military interference. Whatever reasons and arguments against military government in the South are valid, apply with equal force to the military government of Indians.

Great God, have we lived to this day to find men so far forgetting their obligation to all that is proper and right—to say nothing of what is just and generous—that eight million of people in the Southern States are to be compared with these savages! Those southern people have fought under that flag from the time of the Revolution; they have watered every battle-field with their blood; they have sent to these Halls some of the distinguished men, the peers of any men whom this country has ever produced. They have organized State governments and framed constitutions and laws which will not suffer by contrast with the work of the men from any other section. But now, because our governments were overthrown, our governors removed, our State Legislatures dissolved in time of peace, and the military sent to prey upon us; and because we have felt this to be an outrage, we are to be compared with the savage men of the forest, 170,000 of whom, as we are informed, are living to-day undressed, unclad, without any form of government, without any respect for law, destitute of every instinct of civilization and every sentiment of Christianity. Because we have felt the grievous wrongs inflicted upon us, the deep outrage upon everything sacred by human or divine law, we are to be compared with the savage of the forest!

I had hoped that the time had come when our feelings and our sensibilities would receive some respect, would command the attention at least of gentlemen on this floor. I had hardly supposed that any man from the walks of civil life whose feelings had not been imbittered by party strife would give assent to such an insult, such an outrage, such an indignity upon 8,000,000 of his fellow-citizens.

I will not trust myself, sir, to speak of this as I feel, and justly feel. If the gentleman can conscientiously make upon us, upon our character and the character of our people this accusation, comparing us deliberately to the savage tribes of the West, if he can reconcile it to his sense of justice, to his sense of propriety, and to his own feelings of right, let him do it.

List of appropriations for the support of the Indian Department for the fiscal years ending June 30—

1840	$1,039,125 84	1857	$2,520,613 78
1841	1,000,968 00	1858	3,550,985 71
1842	1,300,077 47	1859	1,338,104 49
1843	1,228,816 00	1860	1,797,368 48
1844	2,100,383 33		
1845	1,080,240 11	1865	2,704,496 41
1846	1,059,503 74	1866	3,036,848 91
1847	1,106,698 50	1867	3,780,277 82
1848	1,364,204 95	1868	2,947,346 86
1849	1,799,329 36	1869	3,847,528 45
1850	1,000,980 65	1870	6,121,004 81
		1871	6,324,164 16
1851	2,255,134 35	1872	5,448,540 96
1852	872,209 80	1873	6,449,462 04
1853	2,011,469 85	1874	5,541,418 90
1854	1,728,818 73	1875	5,680,651 96
1855	2,258,182 31	1876	5,360,554 55
1856	2,263,845 27		

Mr. SEELYE. Mr. Chairman, I doubt if any topic comes before the present Congress in all respects more important and in some respects more difficult than this. The magnitude of the Indian question is much larger than one who has not given it a special study is likely to suppose. How to adopt a system which shall wisely care for 300,000 Indians, some of whom are citizens, some of whom are wards, some of whom are friends and some foes of the nation, differing among each other as they differ from us in their languages, and thoughts, and ways, and representing nearly every grade of civilized and savage life, whose original rights to a large portion of our national domain we have recognized by purchases and by treaties which have pledged the faith of the nation for their protection and support; with whom we certainly desire to live in peace, but with many of whom we are in constant danger of war—how, I say, to arrange a method for the treatment of these people which shall wisely maintain our rights and at the same time righteously fulfill our obligations, is a problem upon which he who has thought the most will perhaps speak the least. One point is, however, quite clear and will receive the assent of every one. These Indians have not only cost us a great deal in the past, but they are certain to cost us a great deal more for some time to come. This is true whatever treatment of them be pursued. The game upon which the wild tribes have subsisted is disappearing much more rapidly than the wild tribes themselves, and it is a literal fact that without the interference of our Government, starvation must stare these Indians in the face. But when starvation faces a wild Indian, who does not know how to work and who would not work if he did know how, we all know the exact alternative before him. He will murder and plunder white settlements rather than starve. He has always done it, and, little as we like the fact, all the power of this Government cannot stop him in like circumstances from doing it again. If we seek to guard against his starvation by feeding him, the cost is vast, and, if we seek to stop his raids by fighting him, the cost is vastly more. In either case our relations to the Indian involve a prodigious expense to us, which there is no way to avoid, whatever course we take.

Now, Mr. Chairman, this is not a pleasant fact, and no member of this House can be willing to think of it as a permanent one. However inevitable for the present or the immediate future, we would all like to find some plan of ultimate relief. But this relief can, of course, only come through some change in the Indians themselves. Any change on our part, unless it be our decadence and consequent withdrawal from all contact with the Indian, leaving him to roam again untrammeled over his wilds, would only increase the difficulty. In fact, the growing burden comes from our increasing growth.

But what sort of a change in the Indian would secure for us relief? To this inquiry high military authority, echoed, also, by some high in civil life, has answered sternly that extermination of the red man is the only remedy against him which the whites possess. "The only good Indian is a dead Indian." But, Mr. Chairman, in this presence, surrounded by the Representatives of the American people, I should not expect to be pardoned, if attempting to discuss this remedy. We are not ourselves savages; we represent a humane and Christian people, and this House might properly deem itself insulted if it were supposed that arguments against attempting the extermination of the Indian were needed here. I pass this policy, therefore, without a word.

But there is here only one alternative. Unless we are satisfied to let the Indians remain as they are—some of them, indeed, educated, industrious, and Christian, but others ignorant, poor, wild, lawless, needing our constraint and dependent on our support—unless we are content to bear continually the burdens which the Indians now lay upon us, burdens which, if permanent, would be as disastrous to them as they would be oppressive to us, we must maintain a treatment of these people which shall seek to bring them all to a knowledge of the rights, and a fulfillment of the duties of Christian civilization. This surely is the only aim worthy of us and well for them.

Need I stop to prove the possibility of this? The history of the world for the last eighteen centuries proves it. The actual results of attempts thus far made to christianize and civilize these Indians prove it. The wildest and most savage races have been changed from barbarism to a civilized life. The wildest and most savage of these Indians themselves have been transformed into peaceable, and law-abiding, and enlightened men. That which has been done can be done. But how? "Civilization," says Niebuhr, "is never indigenous to any people." No savage ever civilized himself; no barbarous tribe ever rose by its own efforts to an enlightened life. The lamp which lights one people in their advancement, has always been lighted by a lamp behind it. And, in every instance thus far, civilizing movements have had their impulse in civil means. The history of the world has yet to show the first instance where civilization has ever been conveyed to any people, save indirectly, by an army or by military power. Armies have often opened the way for civilization; wars have broken down the doors which kept civilization out, through which civilizing steps have subsequently entered; but war itself does not civilize. Armies alone have never improved the world. The distinguished soldier now General of our Army, among his many terse and true sayings, never crowded more truth into fewer words than when he said at Atlanta, "War is barbarism, and you cannot refine it." War is barbarism, and you cannot, therefore, make military means, in any sense save indirectly, a ministry of civilization.

But if any one supposes that in the present instance we can make a new experiment with results different from all thus far known, I simply wish to call his notice to the actual influence of our Army on the improvement of the Indian. And unhappily—I wish it were otherwise, and that facts would set aside this argument of mine—unhappily this influence does not tend to his improvement. On the contrary, the testimony is not only positive, but well-nigh universal, that in respect of the lowest vices and the most loathsome diseases the Indian is made worse thereby. Military officers, high and low, soldiers of the Army, traders and travelers and explorers, Indian agents, Indian inspectors, and Indian commissioners, missionaries, and teachers, have testified that the presence of a military post among the Indians is always a source of unqualified and awful demoralization. Are we dreaming, therefore, when we seem to hear it gravely proposed to employ the military arm to lead these people unto virtue? Is this the agency by which we shall seek to christianize and civilize them? And if you say that we will separate the military post from the Indian and suffer no contact of the two, how are you going to do this, if you have nothing but the military to do it with? And if you could do it, what need would there then be of the military management? The gentleman from North Carolina, [Mr. SCALES,] chairman of the Committee on Indian Affairs, for whose judgment as well as character I have learned to hold a high respect, said a few days since, in discussing this matter, though arguing for the transfer of the Indian management from the Interior to the War Department:

Now, sir, I would not be understood as underestimating the value and importance of the services rendered by these different religious bodies in the efforts of the Government to civilize the savage races. They must have schools, they must have teachers and preachers, and they must be taught the Christian religion; and to have this efficiently and faithfully done we must in a great degree rely upon the noble and self-sacrificing men and women who, taking their lives in their hands,

with no reward or hope of reward here, go out as missionaries of the Gospel among the Indians. But I would give all the largest liberty; I would open wide every door of access into that country and shut it to none. I would have the Government give its countenance and protection to all, and leave the results to their own faithfulness and energy, to the truth, and to God.

The gentleman makes no claim, it will be noticed, that the Army itself will have any tendency to civilize the Indians. Such a claim is made by no one. If civilizing agencies come in, they must be brought from civil life. This is a notable admission, and ought to be fatal to the bill before us. But will the gentleman let me push an inquiry just here? What sort of success does he judge these "teachers and preachers" would have upon the Indian when confronted by the influences of the military post having the teachers and preachers and Indians also in charge? Granted that the Gospel is able to subdue all vices and to change the demoralizing tendencies of even an Army post by changing the character of the men in the Army, but I want to know if this would not be the first work which, under the system proposed by this bill, these "missionaries of the Gospel among the Indians" would have to undertake? Could there be any rational hope of success until this were done? I do not suppose that our Army officers are any worse or any better than other educated men, but the Army itself, the soldiers who enlist in time of peace, and who are the men actually manning our military posts to-day, need no description here. They are not the men, to say the least, whom we should choose as colaborers in missionary efforts to convert the Indians. Till their influence is checked or changed either by their own conversion or their removal, you can no more work benignly on the Indian by any kind or quantity of missionary agency than you could neutralize the poison of obscene books by binding up Bibles with them! This any one can see who thinks upon the matter but for a moment, and he who thinks upon it most will wonder most that any one should ever think of civilizing Indians in this way. But the truth is, Mr. Chairman, no one does think this. The whole proposal to transfer the Indian management from the Interior to the War Department is either without thought or it involves a confusion of thought. I say this, meaning no disrespect to those who have advocated this course, but I am compelled to say it, because in all their advocacy, when it comes to the question pure and simple of christianizing and civilizing savage Indians by military power, nobody ventures to claim that it can be done. Nobody has claimed this. I venture to say nobody will. And yet this, as we all admit, is the exact end we ought to seek. This alone can solve the Indian problem; by this alone shall they and we cease to disturb each other. Can any man, therefore, who desires this, and who knows also what the Army does and what the Army is and must be, directly argue in favor of this bill with a clear understanding of what his arguments imply? I would put no construction on such a man's mental processes save what they obviously indicate, when I say that he is not thinking here of the main issue, but on some other matter quite subordinate thereto. Questions of economy, the actions of officials, the details of administration, these, and not the question how to transform ignorant and hostile savages into enlightened friends and fellow-citizens, are uppermost in the thoughts as they are foremost in the speech of the advocates of this bill.

But these are side issues. I admit they are important, and upon each of them I also have somewhat to say. But if the civilization of these Indians be the one thing indispensable, and if this end must come through civil rather than through military means, then is it wise to cast aside this agency through some supposed defect in its machinery, or shall we not rather set our powers at work to perfect the machinery itself? If you are conducting a military campaign, will you give up your army and let your enemy triumph because the army costs too much, or because it may be badly officered, and perhaps also badly manned; or will you seek, by wise economy, and careful oversight, and energetic discipline, to maintain your own resources and to make the army strong for victory? In like manner, to use the words again to which the present General of our Army penned his name in 1868:

> If we intend to have war with the Indians, the Bureau should go to the Secretary of War; if we intend to have peace, it should be in the civil department.—*Report on Indian Affairs*, 1868, page 47.

It is not easy to put this whole matter into a simpler shape than in these clear words. And when we look at it in this form, there is, there can be, no dispute about the question before us among intelligent men. It is only when we turn aside from this main issue and put something quite subordinate or accidental in its stead that our thoughts become confused, and we find ourselves discussing whether an agency which perhaps has not been properly conducted is thereby an improper agency. But as these subordinate issues are quite prominent in many minds, and as they are in themselves important, though subordinate, I think it well to inquire into the wisdom and efficiency of our present management of Indian affairs as judged by the actual facts. Do these facts warrant any sweeping condemnation of it, or do they justify our continued confidence and support?

In reference to this inquiry, one general fact should always be remembered. We should not forget, though I apprehend we often do, the magnitude and the difficulties of the Indian problem, and the likelihood that any class of men or set of means may sometimes seem to fail in dealing with it. No man, whether in military or civil life, whether educated or unlearned, is beyond the liability to temptation; and in dealing with these remote, and ignorant, and savage people, temptations are not only so numerous and strong, but opportunities of concealment are so manifold and easy, that we ought to expect—it would be almost incredible to find it otherwise—that some men's virtue, put to such a test, will easily yield, and that some who might for a time stoutly resist will at length give way, and also that bright hopes of Indian improvement may be disappointing. Forgetfulness of these facts is always liable to foster careless criticisms of the conduct of Indian affairs, but these criticisms we should notice were just as frequent and just as forcible when the Indians were managed by the War Department as they have been since. From 1832 to 1849 the Indian Bureau was under the direction of the War Department as it is now proposed to make it again, but in these seventeen years the treatment of these people was so cruel and forbidding, that the people of the land almost with one voice demanded a change. Granted that the change has not been all that could be desired; admitting, if you please, the very worst that has been charged against the present system, it may yet safely challenge comparison with that which it displaced. No worse state of things, even at the worst, has existed in the management of the Indian since 1849 than before, and it is childish not to have learned these things, and imbecile if, having learned, we have forgotten them.

But, Mr. Chairman, it cannot be admitted by any one conversant with the facts that the present Indian management is justly liable to the criticisms often urged against it. Since the so-called peace policy was adopted, a policy which crowns the present Administration with unfading luster, not only has there been a manifest increase of economy and efficiency and integrity in the treatment of the Indian, but also a most marked improvement on the part of the Indians themselves. If gentlemen will turn to the report of the board of Indian commissioners for 1875 they will find evidence which, as the commissioners themselves say, "will convince the most skeptical that in the main there has been an honest purchase and delivery of annuity goods and supplies for this year."

Let me briefly state the method now employed by the board for furnishing the Indians with these supplies. Advertisements are issued and bids solicited, which bids must be accompanied with samples as well as prices of the articles required. The samples and prices are then submitted severally to experts, who are also men of high mercantile standing and who, having first made oath that they have no private interest in the pending bids, advise in each case as to the contracts to be made. The samples of the goods contracted for are retained by the commissioners, while the goods are forwarded to the agents, who in return send back samples of the same for comparison here. To guard against all further possibility of wrong, the commissioners during the last season also sent a special agent to procure from the lodges of the Indians samples of the goods actually furnished them, which again have been compared with those sent by the agents and those originally in the commissioners' hands. Under such a system fraud is almost an impossibility, and under it no wonder the chronic complaints of the Indians have ceased.

The gentleman from North Carolina [Mr. SCALES] read from the records of 1862 an odd list of annuity goods furnished certain Indians, a list which certainly provokes a smile; but what has a matter of this sort, occurring, moreover, fourteen years ago, to do with the case in hand? The gentleman surely knows that in the last six years there has been adopted in the management of Indian affairs a system of oversight and inspection under which nothing of that kind has occurred or can occur. Everything is not yet perfect. Undoubtedly there are frauds still. The board of Indian commissioners found last year certain beef-contractors altogether too smart for them. A system of straw bids against which they had carefully guarded, but which was so deftly handled that the wariest watchers might have fallen into the snare, entrapped and outwitted these commissioners, as they themselves have discovered and declared. They are not likely to be thus deceived again. Indeed, with the Indian Bureau as now organized; with the board of Indian commissioners supervising all purchases and watching carefully the entire treatment of the Indians—doing this also at great labor and without hire—with the Indian inspectors consisting of three trusty men—who should be five—who actually make the tour of all the agencies and closely examine each, fraud cannot go long undetected or shiftlessness or inefficiency fail of being promptly rooted out. I venture to say that neither Congress nor the country is generally aware of the amount of careful, faithful, and successful work now doing for the Indian. We have had such stories of corruption and mismanagement—some of which are certainly true and many of them as certainly false—that we have come to think of these as representing the prevailing state of things. It is no wonder that we believe these stories; no wonder, because the evidence of some of them is beyond dispute and because also they accord so well with what we might expect from subjects of this Government in their dealings with the Indians. We should not forget what a potent example the Government itself has set in this particular; what treaties, what solemn pledges it has broken to the Indian, and with what cruelty, as well as fraud, it has so often treated him. No wonder that our people should be so prone to follow where our Government has so conspicuously led the way. But, notwithstanding all this it is true that under the existing order of things, changes for the better are taking place among the Indians which we ought to acknowledge gratefully. So much was never done in their behalf nor with such good results as now. That this is not a vague and general assertion without proof is evident from almost every page of

our recent official documents relating to this subject. Let me quote, for example, from page 123 of the last report of the board of Indian commissioners, a statement showing results accomplished in the last seven years in the central superintendency, embracing Kickapoos, Pottawatomies, Kaws, Osages, Quapaws, Peorias, Ottawas, Wyandotts, Senecas, Sacs and Foxes, Absentee Shawnees, Cheyennes, Arapahoes, Wichitas, Kiowas, and Comanches, aggregating 16,000 Indians, some of whom have in former years given us great disturbance.

	1868.	1875.
Number of schools	4	15
Number of pupils	105	836
Number of Sabbath schools	.....	13
Amount contributed by friends	.....	$10,000
Acres cultivated by Indians	3,220	14,499
Corn raised by Indians, (bushels)	31,700	320,500
Wheat raised by Indians, (bushels)	633	28,032
Oats raised by Indians, (bushels)	.....	5,930
Potatoes raised by Indians, (bushels)	1,770	17,102
Other vegetables raised by Indians, (bushels)	7 000	12,000
Hay raised by Indians, (tons)	750	4,996
Horses, ponies, and mules owned by Indians	17,924	25,921
Cattle owned by Indians	640	6,580
Hogs owned by Indians	1,074	12,268
Houses occupied and owned by Indians	.....	1,042

But this is not a single case. If gentlemen would only take the trouble to examine what is done; if they would only read the record of results such as appear, for example, at the Yakama agency, in Washington Territory, and the Round Valley agency, in California, and the San Carlos agency, in Arizona, where three years ago the wild Apaches could not be kept in peace by all the army we could send there, and the Santee Sioux agency, in Nebraska, and the Sisseton and Yankton agency, in Dakota, and many others—if gentlemen would only remember that in these last six years, since the present or so-called peace policy was adopted, we have had peace with the Indians to a degree never known before, and this notwithstanding that the advancing tide of western emigration has never so largely encroached upon their reservations and narrowed their hunting-grounds as in this time, they would no more think of abandoning this policy and endangering this progress than in the raging of a pestilence they would reject the remedy under which the sick and dying were becoming restored to health and life again.

But, Mr. Chairman, I am aware that these considerations are sometimes shut out from some minds by other thoughts. Questions of economy and administration are raised and urged in favor of the transfer which this bill proposes. But would it be economical? Here I take issue, and affirm that, besides the great disorder and consequent enormous waste which could not but ensue upon the transfer of so vast and complicated a machinery as this from one set of hands long accustomed to its management to another set all unacquainted with it, the present administration is vastly more economical and efficient than there is any likelihood of obtaining from the War Department. I challenge contradiction when I say that there is no Department of the Government where the sum paid and the work done are so disproportionate as in that which administers our military affairs. This is not, perhaps, anybody's fault; it is perhaps inherent in the system, but it is the literal truth; and the facts within the knowledge of every member of this House will justify the statement. Why, Mr. Chairman, one acquainted with the facts must smile, if he does not stare with wonder, to hear this bill advocated because the War Department can purchase and furnish supplies to the Indians more economically than the Department of the Interior has done. I hold in my hand a tabular statement prepared from official data furnished me from both the War Department and that of the Interior, in which the comparative cost is given of beef and flour per hundred

Comparison of cost of supplies purchased by the War Department and by the Indian Office.

BEEF.

Fiscal year.	War Department.		Indian Office.	
	Place of delivery.	Price per 100 pounds gross.	Place of delivery.	Price per 100 pounds gross.
1874-'75	Fort Sill, Indian Territory.	$3 25 and 2 16½	Kiowa agency	*$1 72 †1 92 ‡1 64
1875-'76	Fort Sill, Indian Territory.	1 74½ and 2 37½	Kiowa agency	§$1.619 ‡1.636
1874-'75	Camp Robinson	4 68½ and 4 62½	Red Cloud and Spotted Tail agencies.	§2.303 ‡3.00
1875-'76	Camp Robinson	4 00 and 3 00		§2.46½
1874-'75	Fort Randall	4 12½	Yankton agency	§2.303
1875-'76	Fort Randall	4 00	Yankton agency	§2.46½
1874-'75	Fort Wingate	4 00	Navajo agency	No contract for 1874-'75; average price paid by agent 2 50
1875-'76	Fort Wingate	3 98½ and 2 00	Navajo agency	2 69½

*April. †May. ‡Balance of year. §April and May.

Comparison of cost of supplies, &c.—Continued.

FLOUR.

1874-'75	Fort Sill	$6 17	Kiowa agency	$4 29
1875-'76	Fort Sill	5 38	Kiowa agency	4 57
1874-'75	Camp Robinson.	7 89, 5 80⅞, and 6 35⅞.	Red Cloud agency	4 83½
			Spotted Tail agency	4 97
1875-'76	Camp Robinson	5 58½ and 4 57	Red Cloud agency	4 53½
1874-'75	Fort Randall		Spotted Tail agency	4 45
1875-'76	Fort Randall	3 22½	Yankton agency	3 13
1874-'75	Fort Wingate	3 22	Yankton agency	Wheat instead of flour.
1875-'76	Fort Wingate	5 55		
		5 38	Navajo agency	No contract.
			Navajo agency	7 35

weight as contracted for and furnished to certain military posts and Indian agencies lying in close proximity to each other. And will it be believed, after all the sweeping assertions we have heard respecting the superior economy of the War Department, and the great saving in the cost of Indian supplies to be expected from the passage of this bill, that the average cost of beef and transportation of the same at these military posts was, in the fiscal year 1874-'75, 78 per cent. more; and in the present fiscal year 38 per cent. more than at the neighboring Indian agencies? Take a single instance, and a perfectly fair one, for illustration. Camp Robinson is a mile and three-quarters from Red Cloud agency. The cost of beef at the two, therefore, ought to be just about the same. But during the present fiscal year the average price paid for beef delivered at the camp was $3.50 per hundredweight, while at the agency the average price was $2.46½ per hundredweight gross weight in both cases. Now, the amount of beef contracted for at Red Cloud agency from July 1, 1875, to February 8, 1876, is 10,608,012 pounds, and the difference betweeen its actual cost ($261,487.50) and the cost ($371,280.42) of the same under the Army management is a difference of $109,792.92, a sum almost large enough to pay the entire salaries of all our Indian agents. The same facts are seen in the cost of flour, as the table shows, and I have no doubt the same would appear also wherever the same sort of supplies have been furnished to the Army and the Indians, the two lying side by side. In the case of flour, it might be said that the flour furnished the Army is of a better grade than that purchased for the Indians, which is probably true and rightly so; but this is not the case with beef, and this will not explain the full difference in the case of flour. I know no other explanation for it than the fact that the Indian Bureau is vastly more economically managed as it is than it would be under the War Department.

But will not this transfer permit us to get rid of a great expense of management? Let us see. The Indian Bureau costs $69,880 per year, which could be saved, or largely saved, it is said, by transferring it to the War Department. This sum is not large, though by no means inconsiderable, but how can any one expect it to be thus saved? Why, this transfer is actually proposed in an appropriation bill which cuts down the salaries in the War Department 10 per cent., and reduces the force there 20 per cent., and though I wish to speak with all deference of those who have had larger experience in this House than I, yet I must say that to seek to save the cost or reduce the cost of the Indian Bureau in this way is to trifle with legislation, and to treat with contempt the grave duties we have been sent here to perform.

But the agents in the field, the superintendents, and inspectors, and commissioners—all their expenses can be saved by detailing Army officers for this service without additional cost? Army officers? And are these then so plenty, and with so little to do, that we have enough at hand for all this work? Then other questions are suggested to which the advocates of the maintenance of our present Army force might not find it easy to reply. But, waiving this, does any one expect that either the officers or the soldiers of our Army are going to do the work now actually accomplished or needing to be done at our Indian agencies? Are Army officers going to teach Indian children, or Indian adults? Are the soldiers of the Army going to act as herdsmen or husbandmen to show the Indians how to care for cattle and how to till the soil? Is the patient and laborious employment of instructing these ignorant people in the arts, and inciting them to the ways of civilized life likely to be congenial to military men of any grade, or, when you come to the point, is it likely to be done by them? The truth is—and why should we not see it before the disastrous experiment is made—either the work would not be done in this way, or we should need as large a force of civilians as now to conduct it. I quote again from the words to which the General of our Army penned his name in 1868:

> Not one in a thousand of the officers of our Army would like to teach Indian children to read and write, or Indian men to sow and reap. These are emphatically civil, and not military occupations.—*Report on Indian Affairs*, 1868, page 48.

When the great reduction in our Army took place in 1869 we had supernumerary officers who could be detailed to act as Indian agents, many of whom were thus detailed in 1870. But the experiment was not satisfactory, so far as I can learn, to anybody, least of all to the officers themselves, and the practice was abandoned. But we have no such supernumerary officers now in numbers sufficient for this work, and therefore, if this bill should pass, the detailed Indian agents must be taken directly from the Army service. Let us see how this will work. Of course these men will not be taken from the ranks of field officers,

but officers of the line will have to furnish the supply, and as the bill reported by the committee making provision for this transfer directs that Indian agents shall not be of lower rank than first lieutenant, this, or that of captain, is the rank from which these men would generally come. Now, Mr. Chairman, whether the first lieutenants and the captains of our Army are in point of years and character and wisdom just the men for Indian agents I will not inquire. But every one knows that in the Army the rule of such detached service is the rule of rotation, while the one thing needed in an Indian agency, if the agent be fitted for his place, is that he be kept there. But how are these two requirements to agree? They cannot agree. They are irreconcilable. One must yield to the other, and is it difficult to see which this will be? When the efficiency of the Army and the success of the agency have this divided interest, and the Army or the War Department has the sole power to decide the issue, does any one doubt on which side the decision will be? And is it wise in any aspect to take a step which leads to such an end?

But besides all this, as stated in the minority report accompanying this bill, at the root of Army organization lies the principle of readiness to move at any time to any place as orders are received. The transfer of Indian affairs to the War Department would therefore not only be a departure from the policy of peace and civilization of the Indians, but would also be destructive to the efficiency of the Army itself.

But this question of economy assumes much larger proportions than the cost of the Indian Bureau and agencies discloses. Since the Government began we have no parallel, nor aught approaching it, to the magnitude of outlay and meagerness of result which our military relations to the Indians have shown. During the forty years prior to 1868 the cost of Indian wars—the direct cost to the Government, without including the cost from the plundering and destroying of private property—was, according to the estimate of the Commissioner of Indian Affairs for that year, not less than $500,000,000, the interest of which alone would pay five times over the largest amount ever asked for to maintain the peace policy and keep the peace with the Indians. Now, I know it is said these Indian wars have been necessary; but let us not blink the issue here. On what does this necessity hinge? I wish to make no sweeping assertions, and therefore call the attention of the House to the actual source of these wars during the last twenty or thirty years. Take the great Sioux war of 1852-'53-'54. It started thus: A Mormon emigrant train lost a cow upon the road, which a band of Sioux, who were living in perfect peace in the neighborhood, found and took. The Mormons, discovering this, made complaint at Fort Laramie, near which the loss occurred, and a lieutenant with a squad of soldiers was dispatched for the recovery of the cow. But the cow was by this time past recovery. In the language of the protoplastic theorists, she was fast undergoing transmutation into Indian. The Indians offered to pay for her, but the brave lieutenant now demanded that the man who had taken her should be surrendered for punishment. The Indians said he could not be found, whereupon—will it be believed?—the lieutenant, with no other provocation, commanded his troops to fire, and the Indian chief was slain! Those troops never fired again. They were instantly surrounded and massacred, every one; and this was the beginning of that terrible war with the Sioux which lasted nearly three years, which cost the Government $40,000,000 and hundreds of soldiers' lives, and left our relations with the Indians in a worse state than they were before.

In the report accompanying this bill we have from the man probably more competent to testify to the actual facts than any other man living the statement that "the wars in Oregon in 1854-'55 were brought about entirely by the indiscretion of the Army." The troops were ordered out of Oregon in 1851 because the superintendent of Indian affairs appointed for that Territory would not consent to go until the troops were removed, and they were ordered back in 1853 because it was said that the peaceful state which existed in the interval brought no money into Oregon. During the three years of 1851, 1852, and 1853 the entire cost of keeping the Indians at peace by peaceful means in Oregon and California and Idaho altogether was only $25,000, while in 1854 and 1855 it cost the Government $10,000,000 in Oregon alone to quell disturbances by the Army which the Army itself had created.

But these are not single cases. The same facts appear all through our Army intercourse with the Indians. The Cheyenne war of 1864 and 1865 was directly due to the mismanagement of the military. First a lieutenant undertook to arrest some Indians with no authenticated cause; then a major guaranteed protection to a band who were ready to lay down their arms and live in peace; then a colonel ordered this same band to be surrounded, and though he knew the guarantee they had received and also that they had since committed no offense, and though he saw, as he drew near the hapless wretches, women and little children as well as men huddling around a United States flag, up to which they were gazing for the protection which a United States military officer had promised they should receive—though he knew and saw all this, for we have sworn and copious testimony to the fact, he ordered and secured their massacre with such atrocious cruelties to the living and such indecent mutilations of the dead that one wonders whether the perpetrators could be human beings or whether they were fiends in the guise of men. And yet, after these hellish deeds, the commanding colonel vaunted his infamy in the words: "This fight will put a star upon my shoulder." But it was told us the other day that these were militia-men, a Colorado regiment, and the colonel was not an officer of the regular Army, but, forsooth, a Methodist minister, strangely reconstructed! But what shall be said of the major in command of the regular garrison at that point, whose words were:

> I told the colonel I was glad he had come; that I would have gone before and cleaned out the sons of guns if I had had force enough.—*Report on the Condition of Indian Tribes*, 1867, page 91.

And what shall be said of the Piegan massacre and the massacres at Washita and Powder Creek, or of the lieutenant-general and major-general and brigadier-general and colonel by whom these deeds were done? I never heard any of these men called Methodist ministers or any other than officers of the regular Army regularly bred. These deeds are only equaled in horror and some of them are hardly surpassed by that at Sand Creek, and are a blot of damning infamy not only on the guilty perpetrators, but on the War Department, which still sustains the men who did them. But my object in alluding to these crimes is to call attention to the undoubted fact that by such procedures our Indian wars have been precipitated. So far as I know, it has never been denied that the massacre at Sand Creek caused the dreadful Cheyenne war which followed. This deed taught the Indian that he could trust no one but himself, and told him to let his savage instincts run untrammeled. The Cheyennes and Kiowas and Comanches were all inflamed, and conflagration, death, and pillage reigned all along our borders. It took two years to stop this terror, during which time, besides the immense loss to private individuals of property and life, it cost the Government $35,000,000 and many lives of soldiers; while, leaving out the Sand Creek massacre, only twenty Indians, all told, were slain. In 1865 a treaty of peace was made, but in 1867 war broke out again among the Cheyennes. I will let a report, made to this House from the Indian Bureau, July, 1867, tell the story of its source:

> In April, 1867, the Cheyennes, who had been at peace since the treaty of 1865, were quietly occupying their village on the grounds assigned to them by that treaty, when a military command under Major-General Hancock, without any known provocation, burned down the homes of three hundred lodges, (including about one hundred lodges of friendly Sioux,) and all their provisions, clothing, utensils, and property of every description, property being thus destroyed to the value of $100,000.

From this we had another war lasting through 1867 and 1868, which it is reported cost us $40,000,000 and the lives of over three hundred men.

In 1866 we were at peace with the Sioux, when the military officer in command—another major-general of the Army—in direct violation of treaty stipulations, planted the military posts of Phil. Kearney, Reno, and C. F. Smith in the actual territory of these Indians. The Indians flew to arms, and it cost the Government at the rate of a million of dollars a month and many lives before they could be subdued, and when peace came, and new treaties were made, the Government acknowledged the original rights of the Indians, and ordered the forts to be vacated which had caused the war. In the same line must be set the Modoc war, the war in Arizona, and the present troubles in the Black Hills. There has not been an Indian war for half a century but that the whites have been the aggressors, and hardly one for the same period but can be traced directly to the mismanagement of the military. Military men have often said that the Army does not wish to fight the Indians. Such fighting is hard work, and dangerous, and without much glory. All which is doubtless true, but all which does not bar the facts I have recited.

Our treatment of the Indian, Mr. Chairman, has been a dark stain upon our history. But during the last six years, for the first time since the Government began, it has sought to introduce directly among these people Christian influences. It has selected its agents and superintendents, not from the Army and not from the retainers of a political party, but from the churches of the land. The result has been better and larger than one who knew the difficulties, however sanguine, might have hoped. It has not been all that was desired. The work is very great, and the workmen, though thus selected, have sometimes turned out very weak. But never before could a Christian philanthropist find so much hope in our treatment of the Indians as now. I implore the House not to retrace these steps nor retard a forward movement in the same direction. Do not let either the Army or a dominant party have again the management of these affairs. Save the Indian, I entreat, from the cruelty of the one and the corruption of the other, and from the selfishness of both. Let the Christian spirit which has begun to breathe through our relations with the Indian fully penetrate them. Let the strong bear the infirmities of the weak, and not please themselves, even as Christ pleased not Himself, which, I take it, Mr. Chairman, is the highest law of a Christian nation, as it is of a Christian man, and in which the treatment of the Indian for which I plead has both the principle which justifies it and the promise which assures success.

During the delivery of the above speech, Mr. SEELYE'S hour having expired, his time was extended by unanimous consent on motion of Mr COX.

Mr. HOOKER. MR. Chairman, if the premises laid down by the distinguished gentleman from Massachusetts, [Mr. SEELYE,] who has just concluded his remarks, and those which were assumed by the distinguished gentleman from New York, [Mr. COX,] who spoke so eloquently on this subject the other day, are to be taken for granted as true, then there can be no doubt at all but the mind of every mem-

ber of this committee will gratefully and cordially follow the lead of those two gentlemen. I say if the premises upon which they started out in discussing this bill in the committee are true, then there is no difficulty in reaching the same conclusion they did.

They started out with the declaration that the object of the bill which the committee has now under consideration is to declare war against the Indian tribes and nations. Is that true? Is that position verified by the recitals in the sections of the bill? Can we say such is its object and purpose? I am happy to say, Mr. Chairman, to this committee that in the investigation of this matter the Committee on Indian Affairs entered into it in no partisan spirit. They entered upon it with a desire primarily and with the main and prominent object of giving protection to the Indian and carrying out the treaty obligations of our Government.

Now, this has been a question which has vexed the minds of statesmen from the first foundation of the Government. The Indian has been a subject of anxious consideration. He has been swept on to the West by the tide of civilization from the East; and now two tidal-waves, one flowing from the Atlantic and the other from the Pacific slope, meet him upon the western border, and there are no longer any happy hunting-grounds farther west to which he can be pressed.

This committee, sir, has had no desire or wish to violate one single treaty obligation of the Government; and in the conclusion to which the majority have arrived they have been animated, I say, primarily by the consideration of the Indian's welfare. They find now the Indian is confined to Indian territory under treaties made with the Government, and they have no disposition to violate those treaties. When they yielded the vast possessions we now enjoy, and, under the treaties made by former administrations, retired to the West, they were assured by that man of iron will and comprehensive mind who then presided over the destinies of this country, General Jackson, when this territory was assigned them, that it should be theirs and their children's and their children's children, in perpetuity forever, using the beautiful and figurative language so well calculated to strike the Indian mind and impress him with the conviction that the white man did not speak with a forked tongue. He said to them, "This territory shall be yours while the rivers flow and the oaks grow."

And there is no disposition on the part of the American Congress to violate one single obligation assumed either in the ancient treaties with this race or in the modern treaties, but on the contrary we desire to carry out in good faith every pledge of our Government. But it was a question as to what was the most expedient mode of carrying out in good faith the treaties of the Government and of the American people with this race. I wish to say, however, that the committee in investigating this question have been animated by this desire primarily, but they have not forgotten what the gentleman from New York and the gentleman from Massachusetts seem to have forgotten, that we have a people upon our own frontier immediately and directly in communication with the uncivilized Indian tribes, whose property, whose houses and lives, are seriously jeopardized by contact with uncivilized Indian tribes. They seem to have forgotten we have another people of our own to guard and protect. They seem to have forgotten the conventions and treaties between the Indian nations of this country, like all treaties and conventions, impose obligations upon both parties entering into them to observe their stipulations.

You would not have supposed in listening to the eloquent speech of my distinguished friend from New York or that of the gentleman from Massachusetts there had ever been a single act of Indian barbarity or Indian outrage perpetrated during the whole history of the Government. You would have supposed, on the contrary, that the only men guilty of wrong, the only men who had infracted these treaties, the only men who had broken their words and disturbed the plighted faith of our nation were the officers and soldiers of our Army.

It was said by the distinguished gentleman from New York in the progress of his speech that men upon the border could not understand this question; that they might think it a little singular that a gentleman from the great metropolitan district of New York should undertake to determine this Indian question better than the men who live upon the border. Sir, I was very much reminded, as the gentleman dwelt upon this idea and inculcated this opinion, of a description given by Dickens of the wonderfully charitable woman who was knitting socks and making garments for the children of the people of Timbuctoo Island while her own children were unshod and unprovided for. She looked from a distance, as my distinguished friend from New York does on this question; and he thinks he understands it better than the long array of witnesses we have examined by our committee who have lived more than a quarter of a century in that territory in daily contact with the Indian. Was it really an unjust thing to suppose that these men, thus examined by this committee in the spirit and in the temper in which they were examined, did not understand the subject as well as my distinguished friend from the metropolitan district of New York, or as well as the gentleman from the State of Massachusetts, [Mr. SEELYE?]

We had no partisan object to accomplish. We had no consideration for the Army in determining this question as the majority of the committee have determined it. We looked alone, first, to the rights the Indian had and to our duty for his protection; and, secondly, to the equally just rights which under the treaties we were bound to observe to our own people of the Caucasian race.

It was said by the distinguished gentleman from New York, in the progress of his remarks, that he himself had witnessed the wonderful effects of the civilization which had been produced by the Army; and he had previously said, accounting for his own interest in this matter and his understanding of the subject, that he was himself from a distinguished tribe, the Tammany tribe, in the State of New York, but that he had not derived his information from that tribe or its history; and I suppose he had not, for if I read the history of the country aright, I think it is written that the chief of that tribe departed some time ago from the island of Manhattan, taking all the wigwams and almost all the property of the tribe along with him.

I suppose that my distinguished friend from the State of New York, who seems to think that there is so much to be feared from the Army, when he stood upon the top of that lofty mountain, D'Afrique, and looked upon the wondrous spectacle of the civilization of the Kabyles, guarded by five hundred French soldiers in the French uniform, but whom my friend from New York would have denominated wolves in the French uniform—I suppose when he stood upon this lofty mountain and witnessed this spectacle and congratulated himself on the progress of civilization, he had forgotten the fact that he admitted the five hundred soldiers were there for the purpose of protecting and guarding that civilization; and indeed the admission was made that they were the authors and means by which it was produced. But still the five hundred soldiers were necessary to perpetuate and keep alive this civilization.

I thought that some of the ancient blood of the tribe to which the gentleman belonged must have stirred his veins when he stood on this mountain, for he grew so savage in his temper that he was not willing to be interrupted by a courteous remark from my distinguished friend, General SPARKS, who has charge of this bill. The gentleman from New York further stated in the course of his speech that it was necessary the Army should be strengthened, and that the Indian forts should be strengthened. Afterward he seemed to argue it was unnecessary to have any Army at all. Is that the opinion of the distinguished gentleman from New York, and does the gentleman from Massachusetts agree with him? Do they think now that in our Indian Territory there is no Army? Why in the Indian Territory itself, where we have five civilized tribes—the Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles—we have troops even there; though this bill does not propose by transferring to the War Department the conduct of Indian affairs to interfere in the slightest degree with any one of these civilized tribes.

The distinguished gentleman from Massachusetts and his colleague upon this question from New York have alluded to the half-breeds of the Indian nation as constituting evidences of reproach to these people. Permit me to say to the gentleman from New York and to the gentleman from Massachusetts, that the most intelligent gentlemen whom we had before us of that tribe were of this class, and that they advocated the idea that the chief sources of civilization were to be found in contact with and intermarriage with the Anglo-Saxon race. And during this session of Congress and before this committee we have had half-breeds of the various tribes, some from the Cherokee Nation and some from others, who constituted the most intelligent and the ruling portion indeed of these various civilized tribes. They were here to speak for themselves. They were here to say that that civilization with which the tribes had been blessed was attributable to contact with the white men.

Now, I say that in this Indian Territory we have at Fort Vincent soldiers of the Army and officers of the Army, and nobody proposes to take them away. We have also at Fort Sill and Camp Supply officers of the Army and soldiers of the Army. They are scattered all over your western frontier. They are necessary there for two purposes: to see that the rights of the Indians are protected, and to see that the rights of the white men living upon our frontier are guarded and protected.

Do I understand that the gentlemen who opposed this bill and who opposed the views of the majority of the committee agree with the idea that we no longer need any troops there at all? Such certainly is not the sentiment of the distinguished gentleman from New York in the speech which he made the other day. But, on the contrary, he seems to be of opinion that it is absolutely necessary that these forts should be kept up and the Army increased, for in the progress of his well-considered and able speech, elaborately pondered over, not uttered on the impulse of the moment, but considerately, he says:

> I agree with the gentleman from Texas that the Rio Grande needs protection and that the forts need manning in the Indian country.

A little further along on the same page he says:

> We want no standing army, either for the South or the frontier.

So that we see here an admission that the Army is necessary, and yet upon the proposition to transfer the Indian Bureau to the War Department the gentleman says that no army is necessary, either upon the border where we have savage tribes or in the Indian Territory.

This bill, sir, does not propose to affect at all the five civilized tribes. This Government, however, has always kept soldiers there during the progress of this civilization. For what purpose and when have they acted? It is said by the gentleman from Massachusetts [Mr. SEELYE] that they have occasionally acted improperly. Would you therefore hold the whole Army responsible on that account? It was said by the distinguished gentleman from New York that you

should not trust the Army because of the improper conduct of some one officer, and he alluded especially to the action of General Sheridan in the city of New Orleans, in January, 1875, when he was sent there for certain purposes. He alluded to a memorable historical dispatch which was sent by General Sheridan to the Secretary of War, proposing that he should be invested with power to establish military commissions and to try those parties alleged to have been guilty of offenses whom he declared were banditti; and the gentleman alluded also to the response of the Secretary of War to that message. That response is yet fresh in the memory of our whole people:

The President and all of us approve the course you pursue.

Now, I say that while these instances of military assumption of authority may here and there exist, and while there may occasionally occur in our history instances in which military men have acted without authority and have exceeded their just powers, and even stained with dishonor the epaulets on their shoulders and the uniforms they wore, there have also been instances, yet fresh in the memory of the country, in which officers of the Army have preserved and observed all the rights and privileges which belong to the citizens of the country under the Constitution and laws of the country made subject to their control.

If the gentleman had looked a little further back in the history of Army officers at New Orleans he might have found that in 1867, two years after the war closed, a distinguished general of the Army, General Hancock, who was assigned to the command of the fifth military district, when Governor Pease, of the State of Texas, asked of him that he should supersede by his own military order the great body of the common law that existed in Texas, and that he should wipe out by one dash of his pen the great body of civil laws that prevailed in the State of Louisiana, his reply is yet fresh in the memory of the people. In order to show that there are officers of the Army who understand something of the Constitution and the rights of the people under it, I quote his reply to this demand of Governor Pease, who was probably a legitimate cousin of Kellogg, of Louisiana, and Ames, of Mississippi, the latter of whom has just gone back to the region of country from which he came, and we think for our country's good. In answer he said:

Solemnly impressed with these views, the general announces that the great principles of American liberty are still the lawful inheritance of this people, and ever should be. The right of trial by jury, the *habeas corpus*, the liberty of the press, the freedom of speech, the natural rights of persons, and the rights of property must be preserved.

So I say, sir, that we cannot single out one instance of assumption of authority, either in Indian wars or elsewhere, by the military, and then say that we cannot trust the officers of the Army and the men of the Army on that account.

In this instance a proposition is made—to do what? To use the Army for the purpose of making war upon the Indians? Not at all; but the result shows, when you look at the past management of Indian affairs under the War Department, that the expenditures have increased since it was transferred, in 1849, from the War Department to the Interior Department then created; the expenditures for the Indians, then numbering four hundred thousand, were only $900,000 per annum; not quite a million. What do we see now? And the statement of these results is an answer to the argument of the gentleman from Massachusetts, [Mr. SEELYE,] and all the details of his argument may be answered satisfactorily by other details that can be produced. The expenses for the Indian service have been on the increase from year to year until they have swollen up during the last fiscal year, and probably during the present fiscal year, to from $5,000,000 to $8,000,000. And what has been the number of Indians? In 1849 they numbered, as I have said, more than four hundred thousand according to the census; now they are said not to embrace more than three hundred thousand, including both the savage and the civilized tribes. It appears, therefore, that the expense of the administration of this Indian service under the peace management which has been alluded to by the gentleman from Massachusetts has increased from $900,000 to nearly $8,000,000 per annum, while at the same time the number of Indians has decreased nearly one hundred thousand. Why is this so? I say it is sufficient evidence of the fact that there has not been that just and economical administration of the Department to which the Government is entitled.

Now, where does the fault lie, and can it be remedied? It is said by gentlemen that you must remedy this trouble by getting honest agents; that you have not tried this peace arrangement long enough. Why, sir, you have tried it since 1849, and have seen its operation during all these years. You have seen the expenses of this Department gradually increasing from year to year, until now they have swollen to the enormous amount I have just named. I say this is sufficient evidence of the fact that there has not been an economical administration of Indian Affairs. Why is it that we hear complaints from every Indian tribe that their annuities are not distributed to them, that their supplies are not carried to them.

Your committee took a large amount of testimony on the question of the economy of the transfer of the Indian Bureau to the War Department. It is not proposed in so transferring it that we shall banish from the Indian territories or Indian tribes all civilization and Christianity. The distinguished gentleman from Massachusetts has said that under the peace arrangement the Indians have advanced wonderfully in civilization and Christianity. Who is it that proposes, because the Indians are transferred to the War Department and that Department given the power to purchase these supplies, to make the payments of the annuities, to administer all the Indian affairs by officers of the Army—who proposes to take from the Indians the teacher who goes among them to instruct them in Christianity and civilization? Is it to be presumed that because this transfer is made therefore all effort to civilize and christianize the Indians is to be dispensed with? This very peace commission, upon which the distinguished gentlemen from New York and Massachusetts predicated their remarks, return their thanks to the officers of the Army for the extraordinary kindness and courtesy they received at their hands when they went there for the purpose of investigating the condition of the Indians. My friend from Massachusetts, when he read what was said by the peace commission in 1868, forgot to read the concluding portion of their report, in which they recommend that this transfer to the War Department shall be made.

It will be observed that the very basis of the speeches of the gentlemen from New York and Massachusetts is the fact that this peace commission in 1868 was opposed to this transfer. Let me call the attention of the gentlemen very briefly to what that peace commission said. Mark you, this is the peace commission sent out for the purpose of ascertaining how the affairs of the Indians had been managed. That commission says:

That there are bad men connected with the service cannot be denied. The records are abundant to show that agents have pocketed the funds appropriated by the Government and driven the Indians to starvation.

Does the gentleman from Massachusetts believe that part of the report? Does he think that that part of the report states what is the fact? The report goes on to say—

It cannot be denied that Indian wars have originated from this cause. The Sioux war in Minnesota is supposed to have been produced in this way. For a long time these officers have been selected from partisan ranks, not so much on account of honesty and qualification as devotion to party interests and their willingness to apply the money of the Indians to promote the selfish schemes of local politicians. We do not doubt that some such men may be in the service of the Bureau now.

Again, they say—and I read this in answer to the argument of the gentleman from Massachusetts—

In this connection we deem it of the highest importance that no governor or Legislature of States or Territories be permitted to call out and equip troops for the purpose of carrying on war against the Indians. It was Colorado troops that involved us in the war of 1864-'65 with the Cheyennes; it was a regiment of hundred-day men that perpetrated the butchery at Sand Creek and took from the Treasury millions of money.

My distinguished friend from New York alluded warmly in the progress of his remarks to the Sand Creek massacre.

The commission say again:

A regiment of Montana troops last September would have involved us in an almost interminable war with the Crows but for the timely intervention of the military authorities.

So, that, according to this commission, these Indian wars are not attributable to the Regular Army.

This is a report signed by the president of the commission, N. G. Taylor, the Commissioner of Indian Affairs, by J. B. Henderson, General Sherman, General Harney, John B. Sanborn, General Terry, Mr. Tappan, and General Augur. What I have read is from the first report of this commission, the one alluded to by the distinguished gentleman from Massachusetts, and the one upon which my friend from New York based his argument.

Now, what do the commission say when they come again to treat of this question? When they met in Chicago, October 9, 1868, they speak of this question again. They had already given their testimony that it was undoubtedly true that thousands of dollars had been pocketed by the Indian agents and that the Indians had not received the annuities and goods to which they were entitled. They attributed the Indian wars to what? To the Army of the United States? How does the Army operate? Only upon the call of the Interior Department and these very men who have control of this peace arrangement. The officers of the Army act in obedience to orders; they are so trained.

The gentleman from New York said, among other things, that if you give these Indians over to the Army it would be a sentence of death to the Indian. His declaration was that it was a sentence of death to the Indian to give him into the custody of the War Department. If this is the case, let me ask whence came all these massacres and wars to which he and the gentleman from Massachusetts have alluded in the progress of this debate? They have all occurred since 1849, during your peace administration, while the Secretary of the Interior has had control and management of Indian affairs. You do not propose to remove the Army, do you? And if you do not, and continue your peace establishment, what evidence is there of the assertion that if you turn the Indian over to the War Department it will be death to the Indian? Can you turn him over to a more certain death than that of the peace management? When this convention met in Chicago in 1868, this very same peace commission, what did they then say?

They passed a series of resolutions and I will read the two last:

Resolved, That the military force should be used to compel the removal into said reservation of all such Indians as may refuse to go after due notice has been given to them that provision has been made to feed and protect them within the same.

Again they said in their concluding resolution, and I call the attention of the gentleman from New York [Mr. COX] and the gentleman from Massachusetts [Mr. SEELYE] to this language:

Resolved, That in the opinion of this commission the Bureau of Indian Affairs should be transferred from the Department of the Interior to the Department of War.

So that in point of fact the only ground upon which the distinguished gentleman from New York and his friend from Massachusetts stand is swept from under them. Their arguments in opposition to this bill are built upon pillars of ice; the first warm breeze of truth that comes across them sweeps the foundations from under them and leaves nothing for their magnificent fabric of war, bloodshed, and massacre to rest upon.

Now the distinguished gentleman from New York presented in this very argument a complete answer to his own assertion that to turn over the management of Indian affairs to the War Department is to turn them over to sentence of death and destruction and extermination. The gentleman from Massachusetts has predicated his argument upon the idea that this peace commission was opposed to the measure, and that their testimony on this matter is to be relied upon in preference to that of anybody else. It has been said, Mr. Chairman, that the most formidable opponent a distinguished man has to encounter (and both these gentlemen have evinced marked ability in the progress of this debate) is himself. Therefore I put the argument made by the gentleman from New York on one page of his speech against the argument made by him upon another page. But we may be able to excuse it upon the ground that even Olympian Jove does not always nod with the same power and significance, and that "*Apollo neque semper tendit arcum.*"

You cannot expect therefore that these gentlemen shall be credited by the committee when the very evidence on which they ask the committee to believe them is swept from beneath their feet.

Mr. KASSON. Will the gentleman yield to a motion that the committee rise, so that before the hour for the recess arrives an order may be made touching an adjournment over to-morrow?

Mr. HOOKER. I yield for that purpose.

Mr. SCALES. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. BANNING having taken the chair as Speaker *pro tempore*, Mr. BLACKBURN reported that the Committee of the Whole on the state of the Union had had under consideration the special order, the bill (H. R. No. 2677) to transfer the Office of Indian Affairs from the Interior to the War Department, and had come to no resolution thereon.

ADJOURNMENT TILL SATURDAY.

Mr. RANDALL. I move that when the House adjourns to-day it adjourn to meet on Saturday next.

The motion was agreed to.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted to Mr. WILLIAMS, of New York, till Monday, the 24th instant, on account of important business; to Mr. TOWNSEND, of Pennsylvania, for one week; to Mr. LEVY for five days; to Mr. HATHORN till Monday next; and to Mr. WALSH for one week.

The hour of half past four o'clock having arrived, the House, according to order, took a recess till half past seven o'clock p. m.

EVENING SESSION.

The House re-assembled at half past seven o'clock, and was called to order by Mr. BLACKBURN as Speaker *pro tempore*.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. RANDALL. I move that the House resolve itself into Committee of the Whole on the legislative, executive, and judicial appropriation bill.

Mr. ATKINS. I ask my colleague on the committee [Mr. RANDALL] whether the time for discussion on this paragraph has been limited?

Mr. RANDALL. I understand it has been limited to five minutes.

The SPEAKER *pro tempore*. The Chair will state that the motion to limit debate upon the pending paragraph was not adopted.

Mr. RANDALL. I move, then, that all debate in Committee of the Whole on the pending paragraph of the legislative appropriation bill be closed in ten minutes. I understand that the gentleman from Maine [Mr. HALE] desires to speak.

The motion was agreed to.

The question then recurred on the motion of Mr. RANDALL, that the House resolve itself into Committee of the Whole on the legislative, &c., appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. COX in the chair,) and resumed the consideration of the bill (H. R. No. 2571) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes.

The CHAIRMAN. The Clerk will read the pending paragraph.

The Clerk read as follows:

Bureau of Statistics:

For the officer in charge of the Bureau of Statistics, $2,250; chief clerk, $1,800; three clerks of class four; four clerks of class three; six clerks of class two; four clerks of class one; five copyists, at $900 each; one messenger; one laborer; and one char-woman, at $480; in all, $33,790. And all the duties imposed upon the Bureau of Statistics by the legislation of the second session of the Forty-third Congress shall be performed by the clerical force herein provided for.

The pending amendment, offered by Mr. CAULFIELD, was to strike out "three clerks of class four," and insert "five clerks of class four."

Mr. WILSON, of Iowa. As an amendment to the amendment, I move to add at the end of the paragraph what I send to the Clerk.

The Clerk read as follows:

For collecting statistics concerning commerce, as provided by the act of the second session of the Forty-third Congress, $5,000.

Mr. WILSON, of Iowa. Mr. Chairman, the Legislatures of the different States, the chambers of commerce of the great cities, and boards of trade, agricultural societies, and individuals, producers of our staples and consumers, have sent petitions to Congress asking interference in interstate commerce to stop discrimination and extortion in the transportation of the products of the Northwest and Southwest to the seaboard. The last House took the question up and passed a bill for the purpose of giving relief from the exactions of the half dozen autocrats who control American commerce. That bill did not pass the Senate, but that body appointed a committee of its own number for the purpose of collecting statistics in order to have information on the subject before it was acted on, who compiled the first reliable facts and statistics Congress has had. As a result of all these demands from all classes of our people an amendment was put upon a bill making provision for the Bureau of Statistics to collect detailed information to be laid before Congress in order that we might act intelligently.

We are well aware, Mr. Chairman, there are two theories abroad in the land respecting the settlement of this question, considering the question from a national stand-point. One is by positive enactment by law regulating freights and fares, either directly or through a commission. The other is by an enlightened public opinion, of which such men as Charles Francis Adams are the representatives. I do not believe, sir, that the people of this country expect the majority of this House to do anything in the direction of controlling this matter by legislation. The gentlemen who comprise the majority upon this floor believe the States should regulate this matter each for itself, and no representations from the suffering millions seem to reach them. They do not believe Congress has the constitutional power to do it, and, as I have said, I do not think the people expect this House to do anything. I believe, however, the people do expect, in furtherance of the other theory that they get all the facts in this connection, an enlightened public opinion may perhaps compel those great corporations, which control seventy-five thousand miles of railroad, capital equal to twice the amount of the public debt, the prosperity and growth of so many of our interests, and employés in greater number than are embraced by our whole civil service—they do expect, I say, we shall have information to secure that enlightened public opinion which will compel these overgrown corporations to do what is just and right, as no legislation is to be looked for from gentlemen who deny the right of Congress to legislate on the question unless to collect statistics.

I do not believe, sir, when you come to sum up the total amount of your savings you can present to the country with any degree of assurance the fact that you have starved the public mind, that you have refused to give information on this our great question, upon which there is nothing upon the statute-book providing for its regulation—I say I do not think you can appeal to the country with any just pride that you have saved this small pittance by refusing to give the people the information they ought to have and cannot be obtained by any other authority.

There is nothing appropriated in this bill to continue the collection of these facts and statistics. The Bureau has to avail itself of the ripe experience of experts, such as the secretaries of the boards of trade of Chicago, Cincinnati, Saint Louis, Buffalo, Boston, and Montreal, men whose experience in compiling commercial statistics is such as no bureau clerk can acquire in years, and whose experience will enable the Bureau to furnish the country with information not easily obtainable elsewhere. The amendment I propose will enable the Bureau to give such experts reasonable compensation. If it is rejected our resources will be no more ample in the future than in the past, when the people send here representatives who will find a solution to the transportation problem. The majority here expect the States to deal with what is beyond their jurisdiction, and deny national remedies to evils that have become national in their magnitude. You have the majority, gentlemen, and will be responsible to the producers of the Northwest and consumers of the East. I yield the half of this grudged time to my friend from Wisconsin.

Mr. WILLIAMS, of Wisconsin. Mr. Chairman, I only wanted to rise last evening to indorse, and if I could emphasize, the words so gracefully and gallantly uttered by the gentleman from Massachusetts [Mr. HOAR] and so forcibly seconded by the gentleman from Michigan [Mr. CONGER] in behalf of the interests of the Northwest. Sixty-five minutes were accorded in committee here last night to the discussion of what was denominated hand-mash-copper-bottomed-sheet-iron whisky-machines in the South, whose capacity I believe was stated to be a jugful a day. [Laughter.] Yet when a question was raised involving the interests in some sense of 40,000,000 of peo-

ple, affecting the transportation of every bushel of grain, every pound of merchandise, throughout the country, and relating to a tonnage equal to the ocean-borne commerce of the world, twenty minutes were accorded for its discussion, ten of which were consumed on the opposite side of this Chamber, and when ten additional minutes were asked for on this side an hour and a quarter was spent in dilatory motions, and a peremptory adjournment taken rather than that further time should be given to two or three gentlemen on this side.

Sir, so far as I am concerned personally I make no complaint. It is a pleasure for me to acknowledge the uniform kindness and courtesy of gentlemen of the opposition. But this question goes beyond that, and fully accords with the consistent record of gentlemen on that side of the House upon this question heretofore.

I must hasten, as my two minutes are nearly expired. I ask the gentleman from Maine to yield to me for two minutes.

The CHAIRMAN. The gentleman from Maine has not yet been recognized as entitled to the floor.

Mr. HALE. The gentleman from Wisconsin had better go on without yielding on my part.

Mr. WILLIAMS, of Wisconsin. Very well; but I see that ominous mallet suspended in the air like the sword of Damocles. [Laughter.]

The CHAIRMAN. The gentleman's time has expired.

Mr. LUTTRELL. I should like to know on which side the gentleman is?

Mr. WILLIAMS, of Wisconsin. I do not blame the gentleman.

The CHAIRMAN. The Chair now recognizes the gentleman from Maine.

Mr. HALE. I will give the gentleman from Wisconsin a minute to state his point.

Mr. WILLIAMS, of Wisconsin. Minute-men were very well at Concord, but that was no such time as this. [Laughter.] I respectfully decline the proffered generosity.

Mr. HALE. I should not have ventured to give so little time as one minute to anybody else than the gentleman from Wisconsin; for I know he can, if he chooses, do more in one minute than most of us in five.

On this matter of the appropriation for the Bureau of Statistics, I wish to say that the subject came before the Committee on Appropriations at the last Congress and was investigated very thoroughly, and the committee then decided to strike out the Bureau entirely because they believed that a good deal of its work was fanciful, that its importance was exaggerated, not entirely manufactured but largely exaggerated, and that the work of compiling statistics for the benefit of the people and of Congress and the Government could be done in other Bureaus of the Treasury Department, as it had been done before.

In this Congress the Committee on Appropriations does not recommend the abolition of the Bureau. One reason is what has been hinted at by gentlemen of the West, who have spoken in favor of a certain appropriation for the compilation of railroad statistics. Last year the Senate put on a clause giving a gross appropriation devoted to that purpose exclusively for the benefit of the people seeking information upon that great subject. The Committee on Appropriations in this House reduces the whole force of the Bureau; but yet we leave twenty-nine clerks to do the work of this entire Bureau. And in order to provide for the wants of the people seeking information upon the question of railway traffic and transportation, instead of leaving it out, the committee has declared expressly that all of the duties upon that great subject confided to this Bureau in the last Congress shall be performed by the force that is left.

Now, Mr. Chairman, I have no hesitation in saying from my own knowledge that I believe this force of twenty-nine clerks is amply competent, in connection with the more than sixty clerks we have for that purpose in the different custom-houses of the land, to compile all the statistics in relation to commerce and navigation, and do all the work that is necessary to be done—and it is great—in reference to the subject of transportation; and it was largely for that reason that the committee left so much of a force as it did. It was purely for that reason that the committee put in the clause at the end of this section that all of the duties imposed on the Bureau by the legislation of the last Congress shall be performed by the force that we give them now. Now, if any gentleman will think for a moment how much valuable work in the way of compilation of statistics for congressional documents and speeches a single clerk can do, if a competent man, he will then realize how much of this work twenty-nine good clerks that we have left in this Bureau can do. I have no hesitation in saying that for all legitimate needs the force that has been left by the Committee on Appropriations is ample. There is a deal of fanciful work that has been done heretofore by this Bureau. There are men in that Bureau whose minds I believe run in a fanciful direction rather than in a practical direction. I do not deny that they have done good.

Mr. CONGER rose.

Mr. HALE. My friend from Michigan [Mr. CONGER] who is now on his feet has made good speeches here in the interest of commerce and has presented columns of figures that are unassailable, and I have no doubt he has been helped in the compilation of those figures by the Bureau of Statistics and that his information has been mainly correct. But I believe this, that, while any information from this Bureau is largely correct, yet it is proper for gentlemen making use of it to scrutinize the figures of that Bureau, because I know of instances in which my friend could not depend upon it.

Mr. DUNNELL. I rose some time ago to suggest to the gentleman from Maine that I find in this bill but eighteen clerks in the Bureau of Statistics, while he talks of twenty-nine.

Mr. HALE. There is one head of the Bureau: one chief clerk; three clerks of class four; four clerks of class three; six clerks of class two; four clerks of class one; and five messengers.

Mr. DUNNELL. That is twenty-three.

Mr. HALE. The gentleman's figuring is different from mine. I make it twenty-nine; and besides there are three messengers and laborers.

[Here the hammer fell.]

Mr. CONGER. I desire to ask the gentleman from Maine——

The CHAIRMAN. The time of the gentleman from Maine has expired.

Mr. CONGER. I wish the Chair would not interrupt me while I am asking a question.

The CHAIRMAN. The gentleman from Michigan is not in order.

Mr. CONGER. The gentleman from Maine had promised to allow me to ask him a question.

The CHAIRMAN. By order of the House all debate on the pending paragraph was to close in ten minutes. That time has now elapsed.

Mr. WILSON, of Iowa. I ask unanimous consent to ask the gentleman from Maine just one question.

There was no objection.

Mr. WILSON, of Iowa. Is the gentleman from Maine aware that in the collection of those statistics the Bureau is compelled to employ experts to furnish statistics; such, for example, as the secretaries of boards of trade, who have spent their whole lives in compiling statistics and who furnish such statistics and do such work as no clerk in that Bureau can? And is he aware that no appropriation is made in this bill to pay that class of men?

Mr. HALE. I do not believe there is any information requisite from that Bureau that the regular clerks cannot get up.

Mr. WILSON, of Iowa. I am well satisfied there is.

The question being taken on the amendment of Mr. WILSON, of Iowa, there were—ayes 36, noes 85.

So (further count not being demanded) the amendment was not agreed to.

The question recurred on Mr. CAULFIELD'S amendment; and, being taken, it was not agreed to.

Mr. CONGER. I move to insert the following as a new paragraph to come in before the next paragraph of the bill:

For expense of collecting statistics by said Bureau, $5,000.

Mr. RANDALL. That is an amendment to the paragraph on which debate has been closed.

The CHAIRMAN. The Chair does not understand that it is an amendment to the paragraph, but a new paragraph.

Mr. RANDALL. It is a proposition to increase the force of the Bureau of Statistics, and it is an evasion of our action in cutting off debate upon that paragraph.

The CHAIRMAN. Does the Chair understand that the gentleman from Michigan offers this as an amendment to the paragraph in reference to the Bureau of Statistics?

Mr. CONGER. No, sir; I very carefully avoided that.

Mr. RANDALL. It relates to the Statistical Bureau, and I raise the point of order that it belongs to that paragraph.

The CHAIRMAN. The Chair sustains the point of order; it is properly an amendment to the paragraph on which debate has been closed.

Mr. CONGER. I am free to say that the Chair hastens to decide the point without listening to the persons most interested in being heard; but I accept it as a part of the system.

The CHAIRMAN. What system?

Mr. CONGER. The Chair can understand.

The CHAIRMAN. The Chair cannot understand the gentleman, and therefore cannot retort.

The Clerk proceeded with the reading of the bill, and read as follows:

Bureau of Engraving and Printing.

For Chief of Bureau, $4,500; one assistant, at $2,250; accountant, $2,000; five clerks, at $1,200 each; three copyists, at $900 each; and four laborers; in all, $20,330.

Mr. WILLIAMS, of Wisconsin. I move to amend the paragraph in line 665 by striking out the word "5" and inserting in lieu thereof the word "6;" so as to make the appropriation $4,600 as a formal amendment. This bears somewhat directly on the question on which I was speaking. I will only say that the remarks of the gentleman from Maine [Mr. HALE] will serve as a parenthesis for mine; and if he will appear again to-morrow night and do what we saw him do last night, fire and fall back and leave the rest of us to fight for five minutes additional time for debate, which he graciously comes in and appropriates to himself to-night, and in opposition to the amendment of the gentleman from Iowa, [Mr. WILSON,] I for one will work as bravely as Julius Cæsar for his benefit. [Laughter.]

Now, as I was saying when I took my seat, the course pursued on the former paragraph is perfectly consistent with the record of gentleman on the other side of the House upon this question of cheap transportation. When the resolution of Mr. Hawley was introduced in the Forty-second Congress, asking only for the collection of statistics and information on this question, of the 75 votes given in its favor

only 5 came from the other side of the House. When Mr. Smith's (of Ohio) resolution came up in the Forty-third Congress, simply announcing the jurisdiction of Congress over the question, of the 172 affirmative votes only 14 came from the other side.

When the bill of the gentleman from Iowa [Mr. MCCRARY] came up for final action and passed by a vote of 121 in the affirmative, the old proverbial five democratic votes only were found in its favor. And now when we come here, not burdening this Congress with fruitless measures which we know cannot pass because of the political complexion of the majority of this House, and when there is coming to be a better understanding between the railroad corporations and the masses of the people, and when in defiance to that sentiment my own State has just repealed what has been styled the obnoxious "Potter law," and when we come here and ask the poor privilege of providing a sufficient number of clerks in the Bureau of Statistics to collect the facts and complete the work already begun and which is indispensable to a settlement of this question upon a just and generour basis, then gentlemen on the other side of the House with their old-time tenacity oppose the giving of even this poor pittance, and accord us ten minutes for debate and filibuster for one hour and a half to save five minutes' time, shouting themselves hoarse that the public business should go on!

Gentlemen, if you can afford it, we can. You may stifle a hearing here, but thank Heaven you cannot do it elsewhere. The people will yet be heard upon this question, and though by arbitrary power and the application of gag-rule you may shut off a half dozen gentlemen who would be glad to speak on this side of the Chamber, you may yet learn that this investment of power is a poor one, and that loaded guns for

Duck or plover,
Bear wide and kick their owners over.

[Laughter.]

[Here the hammer fell.]

Mr. BLACKBURN. I hope the gentleman's time will be extended.

Mr. HALE. Mr. Chairman, it is a matter of great grief and self-reproach to me that I was not side by side with the gentleman from Wisconsin last night in that tremendous struggle which agitated the Committee of the Whole for an hour and a half as to whether ten minutes or seven and a half minutes should be accorded for debate. The gentleman does not realize why it was. He says that I made a five-minute speech and then retired from the debate. I should not have done so if I had not looked about me and seen the gentleman from Wisconsin in his seat. There was nothing more needed after that.

One blast upon his bugle-horn
Were worth a thousand men.

I beg to assure him that hereafter when upon any subject I have made a five minutes' speech and where a solid debate is required and an illumination of the subject, if I see him in his seat I shall always feel at liberty to retire and leave the gentleman in possession of the field.

Mr. WILLIAMS, of Wisconsin. I forgive the gallant and generous gentleman.

Mr. HALE. I knew the gentleman would.

Mr. WILLIAMS, of Wisconsin. I withdraw the amendment.

The Clerk resumed the reading of the bill, and read the following:

Office of assistant treasurer at Philadelphia: For assistant treasurer, $4,500; for cashier and chief clerk, $2,430; book-keeper, $2,250; chief interest-clerk, $1,710; assistant book-keeper, $1,620; coin teller, $1,530; chief registered-interest clerk, $1,710; assistant coupon-clerk, $1,440; two assistant registered-loan clerks, one at $1,350 and one at $1,260; assistant coin teller, $1,260; receiving teller, $1,170; assistant receiving teller, $1,200; superintendent of building, $1,100; seven female counters, at $900 each; five watchmen, at $930 each; in all, $35,480.

Mr. RANDALL. I move to amend by inserting after the words "assistant coin-teller, $1,260," these words, "assistant fractional-currency clerk, $1,260."

The amendment was agreed to.

Mr. O'BRIEN. For the purpose of making a suggestion to the chairman of the Committee on Appropriations, I will move a formal amendment, to strike out the last word of the paragraph. It will be observed that this bill abolishes the independent treasury now located at Baltimore. I would suggest to the gentleman the propriety of moving an amendment—and I think this is the proper place for it—restoring the independent treasury at Baltimore as it now exists.

Mr. RANDALL. I am glad to say that the Committee on Appropriations are disposed to meet the views of the gentleman from Maryland, [Mr. O'BRIEN,] for I am authorized by that committee to move as an independent paragraph, to follow the one now under consideration, that which I send to the Clerk's desk to be read.

The Clerk read as follows:

Office of assistant treasurer at Baltimore: For assistant treasurer, $4,500; for cashier, $2,250; for three clerks, at $1,620 each; for three clerks, at $1,260 each; for two clerks at $1,200 each; one messenger, $840; five vault watchmen, $3,600; in all, $22,230.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read the following:

Office of assistant treasurer at Saint Louis: For assistant treasurer, $4,500; chief clerk and teller, $2,250; assistant teller, $1,620; book-keeper, $1,350; assistant book-keeper, $1,200; messenger, $1,000; four watchmen, at $700 each; in all, $14,720.

Mr. RANDALL. I am instructed by the Committee on Appropriations to move as additional paragraphs, to be inserted immediately after the paragraph just read, that which I send to the Clerk's desk.

The Clerk read as follows:

Office of assistant treasurer at Chicago: For assistant treasurer, $4,500; for cashier, $2,250; for paying teller, $1,620; for book-keeper and receiving teller, at $1,350 each; for one clerk, $1,200; for one messenger, $840, and one watchman, $720; in all, $13,830.

Office of assistant treasurer at Cincinnati: For assistant treasurer, $4,500; for cashier, $1,800; for book-keeper, $1,620; for assistant cashier, $1,350; for chief clerk and interest clerk, $1,200 each; for fractional-currency clerk, $1,000; for messenger, $600; for night watchman, $720, and two watchmen at $120 each; in all, $14,230.

The amendment was agreed to.

The Clerk read the following:

Office of assistant treasurer at New Orleans: For assistant treasurer, $4,050; for cashier, $2,250; receiving teller, $1,800; book-keeper, $1,350; porter, $900; two watchmen, at $720 each; two night watchmen, at $720 each; in all, $13,230; and so much of section 3595 of the Revised Statutes as provides for the appointment of assistant treasurers of the United States at Charleston, Baltimore, Cincinnati, and Chicago, respectively, is hereby repealed from and after June 30, 1876; and the Secretary of the Treasury is directed to discontinue the depositories at Buffalo, New York; Pittsburgh, Pennsylvania; Santa Fé, New Mexico; and Tucson, Arizona.

Mr. REAGAN. I would inquire of the gentleman from Pennsylvania [Mr. RANDALL] why the salary of the assistant treasurer at New Orleans is fixed at $4,050?

Mr. RANDALL. That is 10 per cent. off the present salary of $4,500.

Mr. REAGAN. I notice that the assistant treasurers at Saint Louis, Baltimore, and Chicago are given by this bill $4,500 each.

Mr. HOLMAN. That is 10 per cent. off their present salary of $5,000.

Mr. RANDALL. I move to amend the paragraph just read by striking out the words "Baltimore, Cincinnati, and Chicago, respectively;" also by striking out the words "assistant treasurers" and inserting in lieu the words "an assistant treasurer;" so that it will read: "So much of section 3595 of the Revised Statutes as provides for the appointment of an assistant treasurer of the United States at Charleston is hereby repealed," &c. That amendment is rendered necessary by the amendments which have just been adopted by the Committee of the Whole.

The amendment was agreed to.

Mr. HOPKINS. I move to amend the paragraph just read by striking out, near the close, the words "Pittsburgh, Pennsylvania." I feel encouraged to make this motion in view of the liberality shown to-night by the Committee on Appropriations in restoring the assistant treasuries at Baltimore, Cincinnati, and Chicago. While I recognize the propriety of every section of the country contributing something to a reduction of the expenditures of the Government and while I hold myself ready to co-operate with the Committee on Appropriations and to contribute to that purpose the amount necessary to keep up this depository at Pittsburgh, yet for the sake of the general convenience of our community I would ask that that depository be retained.

The amount of business transacted there is in the aggregate about $3,000,000, and the total cost of the depository amounts to only about $\frac{1}{4}$ of 1 per cent. of that amount, a trifle compared to the advantage of the facilities which it gives to our different interests in Pittsburgh. I thought the Committee on Appropriations had in a measure agreed to this amendment, but as it has not been moved by the chairman of that committee I will move it now.

Mr. HOLMAN. By this bill the depositories at Buffalo, New York; Pittsburgh, Pennsylvania; Santa Fé, New Mexico, and Tucson, Arizona, are abolished. Until 1873 all such points as Cincinnati and other cities of corresponding importance in the Northwest were simply depositories; but, by the legislation of that year and upon an appropriation bill, the office of assistant treasurer of the United States was established in those cities. The subject of the importance and necessity of these depositories is one essentially within the knowledge and official duties of the Treasurer of the United States. He has informed the Committee on Appropriations that the depositories at the places named in this paragraph may be dispensed with without any injury to the public service. It is altogether upon the opinion entertained and expressed by the Treasurer of the United States that this action was taken by the Committee on Appropriations.

I will say to the gentleman from Pennsylvania [Mr. HOPKINS] that such cities as Louisville, Kentucky, and other like cities have not even a depository; it is not found necessary for the public business that a separate office shall be kept up in such cities for that purpose. The national-banking system affords the necessary means for the only convenience and benefit that system is to the country, and the only thing that justifies the existence of such a system under the Constitution of the United States is that the various national banks are made fiscal agents of the Government, and are convenient depositories for the public funds, both for their receipt and disbursement, without any expense to the Government.

Where coin is collected, as in the case of all ports of entry—and Pittsburgh is a port of entry under what is known as the interior-port-of-entry bill—it is within the scope and power of the Treasurer, under the direction of the Secretary of the Treasury, to make provision for the coin that thus accumulates.

At Pittsburgh some $40,000 or $45,000 a year would be received as duties on imports coming directly to that port. As the gentleman from Pennsylvania is aware, Pittsburgh and Cincinnati within recent years, and Chicago and Saint Louis not so recently, have been made ports of entry. Pittsburgh, I believe, was made a port of entry but

two years ago; and it is not regarded, I believe, as a point of great importance, so far as the amount of duties is concerned.

But inasmuch as we wish to avoid any unnecessary expense and to diminish as far as possible the number of employés drawing salaries from the Government, I think it ought to be sufficient that the Treasurer of the United States does not deem the perpetuation of these four depositories necessary to the public service. But I will make this proposition to the gentleman from Pennsylvania: that by unanimous consent, which I presume will be readily given, this subject shall be recurred to again if, on further correspondence with the Treasurer of the United States, it should be deemed important to the public interests that this office should be continued.

Mr. HOPKINS. The gentleman will allow me to ask whether he has any recommendation from the Treasurer in writing?

Mr. HOLMAN. No, sir.

Mr. HOPKINS. Then I beg to say——

Mr. HOLMAN. I wish to say that no part of this bill, I believe—especially no portion affecting the public revenues and their safe-keeping and disbursement—has been drawn without very careful interviews with the officers of the Government having charge of this subject-matter. All these provisions have been considered by the Committee on Appropriations in connection with the officers of the Government having direct connection with them. The committee has not addressed any communication to the Treasurer on this point, but he has been before the committee again and again, and this matter has been talked over very fully.

Mr. HOPKINS. *Pro forma* I move to strike out the last word. My reason for making the inquiry of the gentleman from Indiana was because there is some misapprehension in regard to the Treasurer's views. The Treasurer stated to me that he had been represented as recommending the abolition of this depository, but that he certainly had not done so. In regard to the duration of the existence of this depository, it was established some twenty-five years ago. True it is only a few years since Pittsburgh was made a port of entry; but, as the Treasurer said to me, "This depository is a part of the old democratic system, and if your Congress chooses to break it up, I have no objection." The port of entry I think was created in 1870.

Mr. HOLMAN. O, no; only two years ago.

Mr. HOPKINS. Probably so; but the office to which I have referred as being a proper one to abolish, thus saving as much as the expense of keeping up this depository, was created only a few years ago. However, if the gentlemen of the committee are willing to leave this matter open for future consideration, I have no objection to allowing it to pass in that way.

Mr. HOLMAN. I presume the committee have no objection to that, and I have no doubt unanimous consent will be given. Allow me one further remark. If I have said that the Treasurer of the United States recommended the abolition of these three offices, the language I used was perhaps too strong. I think the question submitted to the Treasurer, a gentleman of very great competency in this branch of the public service, upon whose opinions most perfect reliance is placed by the Committee on Appropriations and I presume by all members of the House—I think the question submitted to him was whether the offices could be dispensed with without any embarrassment to the public service, and he answered, as I recollect, in the affirmative.

Mr. RANDALL. And I desire to corroborate the statement of the gentleman from Indiana [Mr. HOLMAN] on that point.

The CHAIRMAN. The Chair understands that the *pro forma* amendment of the gentleman from Pennsylvania is withdrawn.

The question being taken on the amendment of Mr. HOPKINS to strike out "Pittsburgh, Pennsylvania," in line 24, it was not agreed to.

The Clerk read as follows:

UNITED STATES MINTS AND ASSAY OFFICES.

Office of the Director of the Mint:

For Director, $4,000; examiner, $2,000; one computer of bullion, $2,000; one clerk of class four; one clerk of class two; one clerk of class one; one translator, $1,200; one copyist, $900; one messenger; one laborer; making in all the sum of $15,760. And hereafter all salaries under the Director of the Mint at Washington and at the various mints shall be at the rates appropriated for in this act.

Mr. RANDALL. Under instruction of the Committee on Appropriations, I move to insert in the paragraph just read, after the words "one computer of bullion, $2,000," the following: "one assay clerk, $1,800;" also to strike out "one clerk of class two," and make the total $16,260.

The amendment was agreed to.

The Clerk read as follows:

For contingent expenses of the United States mints and assay offices, namely: For specimens of coins, to be expended under the direction of the Secretary of the Treasury, $200; for books, balances and weights, and other incidental expenses, $700; and refining and parting of bullion shall be carried on at the mints of the United States and at the assay office, New York; and it shall be lawful to apply the moneys arising from charges collected from depositors for these operations, pursuant to law, to the defraying in full of the expenses thereof, including labor, materials, wastage, and use of machinery; but no part of the moneys otherwise appropriated for the support of the mints and assay office at New York shall be used to defray the expenses of refining and parting bullion.

Mr. WOODBURN. I wish to offer an amendment to the paragraph just read.

Mr. GARFIELD. Before any amendment is offered, I wish to raise a point of order on the last clause of this paragraph—all after the words "incidental expenses, $700," in lines 860 and 861. I submit that this is a change of the law and does not come under the new rule. It proposes to authorize what is not now authorized by law. It allows moneys coming into the Mint in the usual way of charges to be used there directly without being covered into the Treasury and without the regular annual appropriation by law. I believe it is always a wasteful method to appropriate money in that way, without a definite annual appropriation. It certainly cannot be claimed to be retrenchment to do this. The paragraph proposes a clear change of the law, without any manifest retrenchment. I believe that the operation of it will be the contrary of retrenchment. I make the point of order against the provision, and I do so because I think it ought not to be here.

Mr. HOLMAN. I should like to say one word on the question of order. The gentleman from Ohio, I think, will remember that the rule of law prescribed by this paragraph is in harmony with the legislation as it stood, I believe, up to 1868. Since then, instead of applying the revenues resulting to the mints from this separation and refining to the expenditure, direct appropriations have been made, and whatever was received by the mints for doing this mechanical process for the benefit of private parties was covered into the Treasury. I submit, Mr. Chairman, that the effect of this change in the law is to retrench expenditure, is to reduce the appropriation, and therefore would seem to come within the spirit of the rule. In other words, it makes this refining process a purely private matter, paying its own way. Instead of the appropriation of three or four hundred thousand dollars a year, no greater sum can be expended than the revenues which arise from this refining by the mints.

I come right back to the proposition I started out with, that it does retrench expenditure from the public Treasury, that it does reduce appropriation from the public Treasury. If it turns out that no bullion comes into the Mint for the purpose of being refined, then there will be no expenditure. In contemplating this subject it may reasonably be assumed there may or may not be. In fact the adoption of this principle will relieve the Treasury of the appropriation of some hundreds of thousands of dollars every year.

Mr. HALE. Let me see whether I have the gentleman's idea. Does he mean to say if an amendment or proposition in the bill simply decreases the aggregate of the bill, but substitutes another and looser method, that that brings it within the rule of retrenchment and economy? I do not think the gentleman can go so far as that.

Mr. HOLMAN. I do not use that form of words, because that form of words does not convey the idea. But I do say this, that the effect of this proposition is to prevent the necessity of drawing money from the Treasury.

Mr. HALE. That is drawing it in that way?

Mr. HOLMAN. No, not in that way; in no shape, manner, or form. The gentleman cannot assume there will be revenues resulting to the mints from refining, yet if money is appropriated it will be expended. The gentleman cannot say no revenues will accrue to the mints by refining—either revenues or expenditures. That cannot be assumed as a proposition of law, but it can be assumed with mathematical certainty under the provision of the pending bill, you will avoid drawing from the Treasury $300,000 a year.

Mr. HALE. Let us see how this will be in practical operation. As the gentleman from Ohio said this was the old method until a few years ago. Now the old method was changed in the interest of retrenchment and economy.

Mr. RANDALL. It has not proved to be so.

Mr. HALE. Because specific appropriations were provided instead of loose appropriations. For the experience of all men is when you particularize, itemize, and confine to specific appropriations you get along much more cheaply than if you give any one of the Departments any general fund to use without any limit or stint. But so far as this proposition being in the interest of the new rule, it seems to me it is opposed to the new rule in its scope. The theory of the gentleman would be, if in an appropriation bill for a given object $500,000 are specifically appropriated, he could by reducing that appropriation $250,000 in amount submit a proposition for a general fund to be used instead of $250,000; that therefore, as he reduced his appropriation one-half, it was in the interest of economy, and it would be subject to the rule.

I have always believed, Mr. Chairman, (if the Chair will permit me,) the rule which we adopted in the early part of the session in reference to amendments changing existing law in the interest of retrenchment and economy comprehended simply patent reduction, patent retrenchment, patent reform in that direction.

Mr. HOLMAN. I agree to that.

Mr. HALE. It must not rest on speculation; it must not rest on the say-so of the mover that what he proposes is economical, nor must it rest on the say-so of any committee.

Mr. HOLMAN. I agree to that.

Mr. HALE. But it must be a patent reduction of a specific appropriation.

Mr. HOLMAN. Will the gentleman allow me a single moment. Now I wish to call the attention of the Chair to the fact that the estimates for this purpose, that is, for the purpose of refining, are two in number, one for $313,210, and the other for $332,000, making in all about $645,000. These are the estimates if we retain the old system, the system in vogue for the last seven years, that which is proscribed

by the law. If we adopt the system in existence for seven years we will appropriate $645,000, and we will appropriate that whether we receive revenues resulting from this mintage or not. But as this provision now stands in this bill we will make no appropriation of $645,000, and this refining will be made a purely private matter at the mints of the United States. The citizen takes his bullion there and it is refined, and he pays for it. That is all there is about it. It is simply alienating the Government of the United States from a business that is in its very nature private, and does not belong to matters of public concern any more than other private business.

The effect, therefore, following the very argument the gentleman has submitted, is that anyhow you avoid the appropriation of $645,000 and leave this private enterprise to pay its own way.

Mr. GARFIELD. The rule under which we are acting does not say retrenchment of "appropriations," but retrenchment of "expenditures." When the gentleman from Indiana and I had a little controversy a few evenings ago about retrenchment in the Post-Office Department, he insisted on figures which counted as expenditures $37,000,000, in which were included all the revenues of the Post-Office Department. I stated I would be glad if the law was changed so as to cover all that money into the Treasury, so that we should have to appropriate all the money out of the Treasury; but the law was such that we had only to appropriate the deficiency. Now we have a case where we appropriate the whole amount needed in our judgment for the refining and parting of bullion, a thing which the Government of the United States has for years thought it ought to attend to; and all we have charged for that we have returned into the Treasury, so that there flow into the Treasury the total charges received from depositors, and we have appropriated out of the Treasury the cost of doing the work. As a matter of fact, we make a little out of it every year. We receive more into the Treasury for this service than we pay out. But if the law now proposed by the gentleman is enacted, they are entitled to use all the receipts from refining and parting for meeting the expenses, and there will come no residuum into the Treasury at all.

We shall therefore have the appearance in this bill of not making the usual amount of appropriation. But we shall have the reality of giving up the whole of this receipt from the parting and refining of bullion and have no residuary amount coming into the Treasury at all. I say it is plainly on the face of the record not a retrenchment of expenditures, although it may be an apparent cutting down of appropriations.

Mr. HOLMAN. The gentleman's argument is purely speculative, while the question whether or not $645,000 shall go from the Treasury is an absolute fact about which there is no dispute. You avoid drawing that sum of money from the Treasury by the adoption of this rule and leave this private business to private enterprise, as far as may be consistent with reasonable accommodation between private establishments for refining and this public establishment.

Mr. HALE. If the Chair will allow me, I will suggest an illustration. The receipts in this case from what the gentleman from Indiana refers to as a private enterprise at present go into the Treasury. Let me give an illustration which, it seems to me, is exactly in point. It may be it is not; I am trying to get at the truth in this matter.

Take the law at present in regard to the sale of Government property. Everything received from this source goes into the Treasury and swells the receipts. Now take a navy-yard—and I ask the gentleman from Indiana to give his attention to this, as it seems to me a case exactly in point—take an appropriation for a navy-yard. We appropriate for a particular navy-yard $500,000 in a gross sum per year. Under the theory of the gentleman we can this year appropriate $250,000, and provide that a portion of the navy-yard may be sold and that the avails of that sale may be used for the expenses of the navy-yard. By doing that you undoubtedly reduce your appropriation, but you allow the expenses of the yard to go upon a fund that is at present turned into the Treasury; and instead of its being in the interest of retrenchment it puts the expenditures on a looser and wider footing. It seems to me that is an illustration in point.

Mr. HOLMAN. I think the proposition of the gentleman cannot be regarded as an illustration in point. This is a matter of expenditures from the Treasury, and the only question is whether the $645,000 shall be taken from the Treasury or not.

The CHAIRMAN. The Chair is prepared to rule on the point of order. The rule adopted this session as Rule 120 reads, as amended, as follows:

> No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject-matter of the bill, shall retrench expenditures.

The Chair would certainly hold that this is germane to this section of the bill. The Chair cannot see but what this clause tends toward economy, toward retrenchment. It does not add to the appropriation certainly. It takes no money from the Treasury. It prevents money from going from the Treasury. The Chair will therefore overrule the point of order made by the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. I regret the decision of the Chair, because it seems to me that it would involve us in great difficulty hereafter.

Mr. RANDALL. The country will not regret it.

Mr. HOLMAN. It has been the law for fifty years.

Mr. GARFIELD. I move to strike out the paragraph upon which I raised the point of order. I desire to say, Mr. Chairman, that it has been the purpose for the last six years—yes, for the last eight years—to work in one direction, namely: as far as possible to bring all the appropriations of the Government under the annual review and supervision of Congress; to have no great operations by the Treasury hidden from the annual inspection and inquest of this body.

Sir, when I first occupied the position of chairman of the Committee on Appropriations, a little more than four years ago, more than half of all the expenditures out of the Treasury never came under the review of Congress at all. They were under the head of permanent appropriations, operations going on by force of general law, whereby the Department expended what they saw fit under a general provision of law; and the Committee on Appropriations set their face as flint against that policy except in the matter of the interest on the public debt and the payment of a few items that were fixed and certain and could not be more or less. But wherever we found expenditures like that, for instance, for printing the national greenbacks and fractional currency and bonds that had gone on to the extent of three or four millions of dollars a year and the employment of twelve hundred persons employed in the Treasury to carry on this work, their salaries determined by the Secretary's will and discretion, the number of persons employed determined by his will and discretion, all that we cut off and put it into our bills, annually swelling them to the amount of more than $2,000,000 apparently in those appropriation bills, but really cutting down the expenditures.

Now we come to a case like that; all the operations of the departments of refining and parting bullion are now carried on under the rigid inspection, not only of the Mint officers, but of this House. We have said for years how much money we were willing to appropriate to carry on this great and important business, and in providing for it we determined how many persons might be employed; we fixed the rates at which it might be done, and all the contingent expenses of the mints that relate to the refining and parting of bullion. We have had under that system the control of all of these matters everywhere. Of course it added $500,000 or $600,000 to the appropriation bills to do it, but now our friends on the other side propose to take the back track on that question; they propose, for the sake of an apparent reduction of $400,000 or $500,000 in the appropriation bill, that we shall throw ourselves back into the old method and say that all these large operations—which are certainly going to be very large now in view of the large amount of gold and silver bullion—shall be carried on wholly between the officers of the mints and the depositors. The number of people that shall be brought into our public offices and the amount they may be paid in this business of parting and refining bullion and the number of persons that shall be employed in this business are no longer to be left under our control. The amount of contingent funds for all purposes are no longer to be supervised by us. If this provision prevails, the work is to be carried on in the old way that the printing of the national bonds and fractional currency was carried on two years ago.

Now I hope, sir, that we shall pause and reflect seriously before we take this very unfortunate action. For instance, we have tried for two or three years past to undo what we consider the great mischief that results from a permanent appropriation of $5,000,000 for the collection of the customs, and there are $5,000,000 now going annually without our supervision into the hands of the Secretary of the Treasury to pay just such salaries as he pleases, and employ as many people as he pleases to collect the customs.

Mr. HOLMAN. Will the gentleman allow me a question?

Mr. GARFIELD. Certainly, if my time will permit.

Mr. HOLMAN. Do you think that the true policy of this Government is to be engaged in a business such as refining bullion, which is a private business in its character, a mere private enterprise? Do you think it is a proper matter for the Government to be engaged in?

Mr. GARFIELD. If the gentleman raises that question, it is an open question. If we ought to abolish this policy, why do it; but so long as it is the public policy to carry it on as it has been for half a century, as long as we do it at all, let us have it under the supervision of Congress, and not have the work done in a corner without our inspection.

[Here the hammer fell.]

Mr. HOLMAN. I shall ask to have read the fifth and fourteenth sections of the act of March 3, 1853, so as to indicate what has been our policy for a long time past. This has been regarded as a mere private business, and I will say to the gentleman from Ohio that the only object of incorporating this provision in the bill is, on the suggestion of the Director of the Mint, to prevent the effect of the absence of competition, to prevent, in other words, for the present, a monopoly in this business, which would be injurious to the citizens who have bullion to be refined.

Mr. GARFIELD. The gentleman will allow me to occupy the residue of his time?

Mr. HOLMAN. I wish to have the sections of the law which I have indicated read.

Mr. GARFIELD. I only wish to use the remainder of his time, now he is through.

Mr. HOLMAN. I wish to have read the sections of the law of 1853 which I have indicated.

Mr. GARFIELD. I thought the gentleman was through.

The Clerk read the following:

SEC. 5. That when private establishments shall be made to refine gold bullion, the Secretary of the Treasury, if he shall deem them capable of executing such work, is hereby authorized and required to limit the amount thereof which shall be refined in the Mint at Philadelphia from quarter to quarter, and to reduce the same progressively as such establishments shall be extended or multiplied, so as eventually, and as soon as may be, to exclude refining from the Mint, and to require that every deposit of gold bullion made therein for coinage shall be adapted to said purpose without need of refining: *Provided*, That no advances in coin shall be made upon bullion after this regulation shall be carried into effect, except upon bullion refined as herein prescribed.

Mr. HOLMAN. The Clerk need not read the fourteenth section; I can state its substance. It contemplates the payment to the Government of the simple expenses incurred in the process of refining, making it a source neither of profit nor of loss to the Government. And that is the spirit of the provision incorporated in the pending bill, which is intended for the purpose I have mentioned; not that the members of the Committee on Appropriations, or a majority of them, believe that the Government should be engaged in the strictly private business of refining bullion any more than in any other private business, but for the purpose of preventing combinations being formed in consequence of the small number of private refineries in the country, both on the Atlantic and on the Pacific, which would run up the price so high as to operate to the prejudice of the persons engaged in that branch of industry.

Mr. GARFIELD. I move to strike out the last word. The point made by the gentleman from Indiana [Mr. HOLMAN] is quite aside from the subject of this discussion. It makes no difference whether this is a private business or not in its origin; if we still continue it in the law, I insist that we ought to continue it under the wise and judicious rule of keeping it an open matter over which the House shall have supervision and perfect control. Every reason which can be given why this should be put in this shape may be given for going back to the old system of printing our bonds and greenbacks under an arrangement with which Congress had nothing to do.

I tell you that you can by just such legislation as this reduce your appropriations $75,000,000, but you will not reduce your expenditures by that means. You can make your annual appropriation bills $75,000,000 less by a permanent arrangement by which the officers of the Treasury Department may make whatever expenditures they may deem necessary and report at the end of the year. In this way you may get the ostensible credit of reducing your appropriation bills, but you would obtain a wretchedly bad practice in regard to the protection of your revenue.

The report of the Mint shows that on one single item alone, parting charges, there were charges amounting to $188,720.68; and there are a number of other charges amounting to close on a quarter of a million of dollars. In all these cases there is a small profit, the profit increasing as the business increases every year, which comes in and makes a residuum of profit to go into the Treasury.

Now, if you are going to give up that business, then strike out the whole of this provision; that would be a fair proposition. But I insist that so long as we do keep this in operation, so long as the Government does supervise it at all, it ought to come into our annual appropriation bills and be subject to the annual inspection of Congress. I say this in no party sense; for it is a thing I have been trying to preach to the House for four years past. In so far as we succeeded in doing that, I believe we have accomplished a great reform.

I appeal to the gentleman in charge of this bill that he does not now set the example of starting the plan of leaving out of the appropriation bills any necessary operation of the Government, solely to have it appear in another form on the balance-sheet when we come to count up the actual expenditures of the Government. I earnestly appeal, without the slightest regard to party feeling, that this proposition shall not prevail, but that the Committee on Appropriations will bring in a proper appropriation to meet this case, and not allow to be revived what I think is a very vicious and unwise method of legislation.

Mr. RANDALL. This matter of parting and refining bullion is a business with which the Government of the United States ought to have very little to do; certainly only enough to keep up a competition, as it were, to prevent extortion upon the bullion owners being practiced by private refiners. This provision was prepared after consultation with two of the members from California in this House. I think it was written by one of them, [Mr. PIPER,] and it meets the indorsement of the Director of the Mint The Committee of the Whole is entirely safe in sustaining the Committee on Appropriations in the adoption of this proposition. I hope, therefore, that it will not be struck out.

Mr. GARFIELD. I withdraw the *pro forma* amendment.

Mr. LUTTRELL. I renew it. Last year I had occasion to visit the mint in San Francisco, and I made pretty thorough inspection and inquiry in regard to the matter. This examination was suggested to me by General La Grange, the superintendent of the mint in that city, who, I take pleasure in saying, is one of the best and most accurate business men that ever had charge of that mint.

The proposition now under consideration is in the interest of miners, and in the interest of business men. If this clause be struck out, then the private assay offices will control the assaying, refining, and separating of the ores, and we must pay whatever charges they may see fit to fix. It is in the interest of the business men of our country that we should maintain this assay office. I find, by examining the reports, that these offices practically sustain themselves. I find that last year the San Francisco mint earned about $160,000; the Philadelphia Mint nearly $380,000. The latter establishment came within $7,000 of paying all the expenses of assaying, refining, and dividing the bullion. I find that for the last four months the earnings of the assay office in San Francisco have amounted to $57,823.16, an average of $14,000 per month. I can see no good reason why these superintendents should not retain the money that may be earned at the Mint or assay office and use it for carrying on the establishment and defraying expenses as provided in the bill now under consideration.

On the earnest suggestion, as I have said, of General La Grange, I agreed to come here and recommend this proposition. In the early part of this session I made the recommendation to the chairman of the Committee on Appropriations, and was seconded by my colleague [Mr. PIPER] from San Francisco. We have examined this matter. The Director of the Mint favors the proposition, and I can see no objection to retaining the provision as recommended by the Committee on Appropriations. I hope that it will be sustained.

When one gentleman here says that this is a loose way of doing business, he has certainly very little faith in the sound business men of our country; for I assure him he can find an account, item for item, to the value of a cent, of all the earnings, appropriations, and expenditures connected with the mint at San Francisco. I do not know how it may be with other mints, because I have not had occasion to examine them; but I do know that in San Francisco, where we probably assay and coin more bullion than in any other part of the country, the superintendent of the mint is one of the strictest and most accurate business men we have ever had; and I have no fear that every dollar earned will be properly and faithfully expended by this honest and upright official. I hope this provision of the bill may prevail.

Mr. FOSTER. I would like to correct the gentleman from California [Mr. LUTTRELL] on a single point. He said, as I understood him, that this clause in the bill is approved by the Director of the Mint.

Mr. LUTTRELL. I so understand from gentlemen here.

Mr. WOODBURN. I refer gentlemen to the report of this committee, in which they will find a letter signed by Dr. Linderman, in which he favors a direct appropriation by the Government for this purpose.

Mr. FOSTER. The Director of the Mint favors this if he cannot get anything else.

Mr. WOODBURN. He says that he is satisfied with this provision of the bill, provided the committee is not willing to make an appropriation.

Several MEMBERS. Let the letter be read.

Mr. LUTTRELL. I have now heard the statements of gentlemen, and I wish to say——

Mr. WOODBURN. Will the gentleman permit me to read extracts from the letter of Dr. Linderman?

Mr. LUTTRELL. I understand what the purport of that letter is: that he recommends an appropriation. But since this matter was suggested by the superintendent of the mint at San Francisco, by my colleague [Mr. PIPER] and myself, expressing on this subject the wishes of General La Grange—since that time, as I understand, the Director of the Mint approves this proposition.

Mr. RANDALL. Let us have no misunderstanding about this matter. I understood from the gentleman from California [Mr. PIPER] that this amendment had been submitted to the Director of the Mint and was satisfactory to him. The gentleman from California [Mr. PIPER] appeared before the committee, and the result of the conference was the preparation of this amendment over night, after consultation with the Director of the Mint.

Mr. WOODBURN. With the permission of the gentleman from California [Mr. LUTTRELL] and the chairman of the committee, [Mr. RANDALL,] I desire to read an extract from a letter from Dr. Linderman.

Mr. PIPER. The facts are these: I desired to have a direct appropriation for this purpose of refining and parting bullion. I supposed that the committee was going to provide for appropriating the amount asked for by the Director of the Mint. I had no other alternative but to accept that or nothing. They did kindly say to me that I might introduce the proposition as an amendment when the bill came before the House, but I preferred to take something from them for fear I should get nothing here.

And I say now, Mr. Chairman, that I am willing to accept this; that I will stand by the arrangement; but I think the other was the proper business way: the appropriation directly out of the Treasury and to allow the moneys received for this purpose at the mints to go directly into the Treasury.

The *pro forma* amendment was withdrawn.

Mr. PAGE. I renew the amendment. Now the statement made by my colleague who has just taken his seat——

Mr. RANDALL. Did not the gentleman write that amendment himself?

Mr. PIPER. I wrote it under coercion. The committee gave me till eleven o'clock the next day to do it. I did write the amendment as the committee told me that was all I could get. I say that I accept it and am willing to vote for it under the circumstances. I want, however, to tell the truth about the matter.

Mr. RANDALL. All I wish to say is that you wrote it.

The CHAIRMAN. The gentleman from California [Mr. PAGE] has the floor and will proceed.

Mr. PAGE. The understanding of my colleague who has just taken his seat is precisely my understanding of the matter when it was in the Committee on Appropriations. When it was being discussed before that committee it was understood they did not intend to make any direct appropriation out of the Treasury for parting this bullion. I spoke to the chairman of the committee myself, and said that General La Grange was in the city and had stated to me if the committee did not make any direct appropriation out of the Treasury for the parting of this bullion, they would get along the best way they could if the committee would allow them to use the money collected for parting and refining this bullion. I did state that fact to the chairman of the Committee on Appropriations. In justice to the Committee on Appropriations, I admit I said that General La Grange did say to me if the committee did not choose to make an appropriation directly from the Treasury—and of course both he and Dr. Linderman preferred a direct appropriation, as it had been done for years past—but if the committee failed to do that, they were willing to accept the proposition to allow them to use the moneys received for parting and refining.

Now, as much has been said about Dr. Linderman, I wish to read an extract from his letter:

I am unofficially informed that the private refining works in San Francisco will not be enlarged. Refining to a large extent will consequently be necessary at the mint refinery. The depositor pays the expense of refining. If the committee is not willing *to advance* the funds for the purpose, let it insert a clause in the legislative bill authorizing the application or use of the funds derived from the refining charge to the full payment of the expenses of the operation. I prefer a direct appropriation, and turning the amount derived from the charges into the Treasury of the United States, but will be content either way.

Respectfully,

H. R. L.

Mr. HOLMAN. I hold in my hand the report of the superintendent of the Mint for, I believe, the last fiscal year. It seems to be the fiscal year preceding the free coinage of gold. I find the charges for parting and other charges, which embrace refining I presume at Philadelphia, were $4,562.94; at San Francisco, $51,035.34; and at Carson, $50,067.41. The appropriation asked for this year, as I have already mentioned, is $645,000. Looking over these returns, it seems the mints are run at considerable expense over the receipts. For instance, the earnings at the Philadelphia Mint were $379,672.62, while the expenditures were $389,593.94; being an excess of expenditures over receipts of $9,921.32. At San Francisco the earnings were $159,319.87, and the expenditures $387,249.69; being an excess of expenses over receipts of $227,929.82. At Carson, the earnings were $106,004.03, and the expenditures $232,016.29, or an excess of expenditures over earnings of $126,012.26.

Now I submit, Mr. Chairman, the tendency of this evidence, as far as it goes, is to indicate the propriety of throwing this business as far as practicable into the hands of private parties with the exception simply of coinage; that is, assaying as well as refining. Of course, as to the coinage, that must be done by the Government; but these other enterprises, purely private in their character, should be left as far as possible to private parties. And such is the purpose and spirit of this provision.

The CHAIRMAN. The question recurs on Mr. GARFIELD'S amendment.

Mr. GARFIELD. I will modify my amendment by striking out and inserting an appropriation of $250,000 for parting and refining.

The committee divided; and there were—ayes 64, noes 104.

So the amendment was rejected.

The Clerk read as follows:

Mint at Philadelphia:

For salaries of the superintendent, $4,000; for the assayer, melter and refiner, coiner and engraver, four in all, at $2,700 each; the assistant assayer, assistant coiner, and assistant melter and refiner, at $1,900 each; cashier and chief clerk, $2,250; book-keeper, deposit clerk, and weigh clerk, at $1,800 each; and two clerks at $1,600 each; in all, $31,350.

Mr. RANDALL. I am directed by the committee to move to strike out the word "and" in line 876, and in line 877 after the word "dollars" to insert the word "each," and to make the total $33,600.

The amendment was agreed to.

The Clerk read as follows:

For incidental and contingent expenses, $25,000.

Mr. RANDALL. I am directed by the committee, on page 37, line 844, to strike out "20" and insert "30;" so it will read: "For incidental and contingent expenses, $35,000."

The amendment was agreed to.

Mr. FOSTER. I desire to propose an amendment to the preceding paragraph.

The CHAIRMAN. Is there objection to going back?

Mr. RANDALL. I cannot agree to go back.

Mr. FOSTER. It is to increase the pay of laborers in the Philadelphia Mint. [Laughter.]

Mr. HOLMAN. We cannot go back. [Laughter.]

Mr. RANDALL. I wish you could employ more of them.

Mr. FOSTER. I ask to make my amendment.

The CHAIRMAN. Is there objection to going back?

There was no objection.

Mr. FOSTER. I move in line 882 to increase the appropriation $50,000; so it will read "for wages of workmen and adjusters, $250,000." I find the amount appropriated for this purpose and expended last year was $250,000. The effect of this amendment is simply to reduce the pay of the laborers employed at the Mint. The policy of the committee has been not to reduce the pay of laborers; and wherever the gentleman from Indiana [Mr. HOLMAN] could find a laborer with a specific salary attached in an appropriation he has in no case reduced it; but wherever he could catch a lot of laborers that were appropriated for in bulk he has been willing in all cases to reduce their pay. That is simply the case here. It amounts in effect to a reduction in the pay of the laborers in Philadelphia at this Mint.

Mr. RANDALL. It is not so at all. [Laughter.] I would not like to be rude——

Mr. FOSTER. I knew you were good-natured there.

Mr. RANDALL. I would not like to be rude, but the gentleman really knows it is not so. The reduction there is produced by a reduction in the number of the laborers and the increase which we deemed to be right of the hours of labor, and in addition the reduction is further warranted by the fact that they will receive the benefit of the plan of refining that was adopted a few moments ago. So that the Mint at Philadelphia has not been struck severely at all, neither was it my wish that it should be. I wanted to do exactly with the Philadelphia Mint as was done with all other mints, for I must be just, even though my own people suffer.

The amendment was not agreed to.

The Clerk read as follows:

Mint at San Francisco, California:

For salaries of superintendent, $4,000; assayer, melter and refiner, and coiner, at $2,700 each; chief clerk and cashier, $2,500; three clerks, at $1,600 each; in all, $19,400.

Mr. PAGE. I desire to offer an amendment.

Mr. RANDALL. I have an amendment to offer to this paragraph from the committee.

The CHAIRMAN. The Chair will recognize the gentleman from California after the chairman of the Committee on Appropriations has offered his amendment.

Mr. RANDALL. I offer the following amendment:

In line 891, after the word "dollars," insert the word "each;" so that it will read: "Chief clerk and cashier, $2,500 each;" and make the total $21,900.

Mr. PAGE. That is the amendment I desired to offer.

The amendment was agreed to.

The Clerk read the following paragraph:

For wages of workmen and adjusters, $225,000; and hereafter no laborer or subordinate workman, or employé of any grade below the first assistant to the chief, (which first assistant shall in no case receive exceeding $7 per diem,) of any of the operative departments of this mint, who now receives a per diem compensation of more than $6, shall be paid exceeding the sum of $6 for each working-day; and no operative, fireman or helper, laborer or watchman, who now receives a per diem compensation of more than $3 and less than $5, shall be paid exceeding $3 per day, and only for actual service.

Mr. PIPER. I offer the following amendment:

In line 894, strike out "$225,000" and insert "$275,000;" so that it will read: "for wages of workmen and adjusters, $275,000."

The question being taken on the amendment, it was not agreed to.

Mr. PAGE. I wanted to say a few words on that amendment before the question was taken.

The CHAIRMAN. The gentleman can offer a formal amendment.

Mr. PAGE. Then I move *pro forma* to insert "$227,500."

I hold in my hand a letter from the superintendent of the mint at San Francisco, in which he states emphatically that he cannot run the mint on the amount proposed by the committee. The committee appropriated last year $275,000 for the wages of workmen and adjusters. The mint at San Francisco coined last year $31,000,000. The amount provided for the pay of the officers in San Francisco is something over $19,000, while at Philadelphia it is over $31,000, and the Mint at Philadelphia coined only about $9,000,000 last year.

Mr. Chairman, it is reported by the superintendent of the Mint and it is believed by the Director of the Mint, Dr. Linderman, and has been so stated in his report, that the mint at San Francisco this year will increase its working capacity nearly one-third more than the year previous. I ask this committee if they propose to strike out $50,000 from the appropriations made last year; and I believe there was a deficiency of some $19,000 or $20,000 appropriated for the previous year at the short session of Congress.

I desire to call the attention of the committee to this part of the letter of the superintendent of the Mint:

I have to ask, therefore, that the sum of $94,000 be appropriated for the coinage of gold and trade dollars, and that the sum of $120,000 be appropriated to defray the actual cost of manufacturing subsidiary silver coins, of which last-named sum $50,000 should be added to the appropriation for wages of workmen, and $70,000 to the appropriation for contingent expenses, making the total appropriation for wages of workmen $275,000, and for contingent expenses $164,000.

In the expenditure of the moneys allowed for contingent expenses the greatest economy and care will be observed in the purchase of supplies; not a dollar will be wasted, and should any surplus remain at the close of the fiscal year, it will be covered into the Treasury.

I hope the amendment offered by my colleague will be carried. I should like to have a vote taken again on it. I therefore withdraw the formal amendment, and renew the amendment of my colleague making the amount $275,000 instead of $225,000.

Mr. RANDALL. The same reasons which prompted the committee in reducing the Philadelphia appropriation applied in this case. The disparity which the gentleman speaks of as between Philadelphia and San Francisco arises from the minting of minor coins, nickels, at Philadelphia; while at San Francisco I think there is no coinage of a smaller denomination than ten cents.

Mr. PAGE. I would like to ask the gentleman from Pennsylvania why it should cost more to run a mint where only $9,000,000 are coined than a mint where $31,000,000 are coined?

Mr. RANDALL. The reason of the difference is to be found in the enormous work on the minor coins, five-cent and three-cent pieces.

Mr. PAGE. The mint at San Francisco coined $230,000 of these minor coins.

Mr. RANDALL. That is a very small sum.

Mr. GARFIELD. If the gentleman from Pennsylvania will allow me a moment, I will say that in appropriating for the mints it is a thing we really should be glad of when there is a good reason for an increase. I always regard it as a sign of returning prosperity in the country when our mints are doing a good business.

Mr. RANDALL. And so I should if we were circulating the coin.

Mr. GARFIELD. I think the gentleman from Pennsylvania has helped to get a part of it into circulation by his late silver bill, and I hope we shall be doing all we can in the way of coining gold as well as silver. I think it is an exceedingly unwise thing for us to cripple in any way the appropriations for carrying on this business. It is a good sign if we have to make a considerable appropriation for the mints, and I think any reasonable request from the Department for a larger appropriation—and I believe they are reasonable in their requests—should be agreed to.

Mr. HOLMAN. I trust the gentleman from California [Mr. PAGE] will bear in mind the fact that the parting and refining of bullion is a very important industry connected with the mints, especially at San Francisco as well as at Carson City, and that the ground on which it is placed by this bill, which is as near an approach as may be to doing the work by private industry, greatly reduces the necessity for this appropriation. The gentleman will see that all the large sums hereafter appropriated to meet the demands of this labor will be to a very considerable extent met—I mean the labor in connection with the parting and refining—by the simple process of making that branch of industry sustain itself.

Mr. PAGE. This is a separate and distinct question, and has no connection whatever with melting and refining at all, or with the parting of bullion.

Mr. HOLMAN. Why, certainly it has.

Mr. PAGE. Not at all.

Mr. PIPER. I am very much surprised indeed that the Committee on Appropriations took this economical view of this subject.

Now, sir, there is no man in this House who is more economical than I am. I am so economical that I walk up, more than a mile from my residence, to this Capitol to save the five-cent car ticket. [Laughter.] It seems to me that the committee certainly do not understand this matter. It seems to me, sir, as the gentleman from Ohio [Mr. GARFIELD] has said, that the coining of money, real money, should be fostered and ample appropriations made for it, as we are now taking the first steps toward specie payment. I assert here that the appropriation of $275,000 asked for is only sufficient to carry on the work at the mint at San Francisco, and I think myself that it is hardly sufficient. I think that the appropriation should be at least $300,000. Stop the mint at San Francisco and where are we to get our circulating medium to move the vast crops now growing in the valleys and on the plains of California? I hope that the gentlemen of this House will understand this subject, and do us justice and give us this appropriation. It is recommended by Dr. Linderman and by the superintendent of the mint at San Francisco, and I have here a letter from Dr. Linderman stating that $275,000 is the very least amount that will suffice to carry on this department of the mint. Gentlemen, I plead with you to vote us this amount of money.

Mr. FOSTER. I move to strike out the last word. I believe, Mr. Chairman, that the figures of the cost of running this mint have not been given to the House. The expenditures last year amounted to $277,000. The Director of the Mint recommends an appropriation of $313,000, and all there is in this matter is one of two things: we must either interfere with the business interests of the people of California and the Pacific slope or reduce the wages of the laboring-men employed in this work of coinage. The idea suggested by the gentleman from Indiana [Mr. HOLMAN] of an indefinite appropriation has nothing whatever to do with this question.

Mr. HOLMAN. Why, certainly it has.

Mr. FOSTER. Not in the least.

Mr. HOLMAN. The gentleman is certainly mistaken.

Mr. FOSTER. This is for coinage; the other applies to the assay office and this to coinage.

Mr. HOLMAN. This is for the general purposes of labor in connection with the mint, and the gentleman knows that this mint is connected directly with the assay office and the refining establishment, and the appropriation is made in gross.

Mr. PIPER. The gentleman must know that the refining and parting of bullion has nothing whatever to do with the coining of money.

Mr. GARFIELD. Coinage is free.

Mr. FOSTER. That is another subject.

Mr. HOLMAN. Does not the gentleman see that this is an appropriation for the wages of workmen and adjusters at the mint at San Francisco?

Mr. GARFIELD. The adjusters are the men who see that the coin is of the right weight.

Mr. HOLMAN. But this provides for workmen.

Mr. GARFIELD. The workmen who run the machinery.

Mr. LUTTRELL. Will the gentleman tell me how much was appropriated for this purpose last year?

Mr. HOLMAN. Three hundred and eighty-six thousand seven hundred dollars was appropriated last year and that embraced all the work, just as this provision does.

Mr. PAGE. I hope the committee will now permit a vote to be taken on the amendment to insert $275,000.

The question was taken on the amendment; and on a division there were—ayes 89, noes 78.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. PIPER were appointed.

The committee again divided; and the tellers reported that there were—ayes 77, noes 77.

The CHAIRMAN. The Chair votes in the negative.

So the amendment was not agreed to.

Mr. PIPER. I move to strike out "$225,000" and insert "$280,000."

The question was taken; and on a division there were—ayes 67, noes 90.

So the amendment was not agreed to.

Mr. PIPER. I now move to strike out "$225,000" and insert "$270,000."

The question was taken; and upon a division there were—ayes 85, noes 87.

Before the result of this vote was announced,

Mr. PIPER called for tellers.

Tellers were ordered; and Mr. PIPER and Mr. RANDALL were appointed.

The committee again divided; and the tellers reported that there were—ayes 68, noes 77.

So the amendment was not agreed to.

Mr. LUTTRELL. I move to amend by striking out "$225,000" and inserting "$250,000." I ask only a minute or two to speak to my amendment.

The CHAIRMAN. The gentleman is entitled to five minutes under the rule.

Mr. LUTTRELL. I believe it will be but justice to the mint at San Francisco to increase this appropriation to $250,000. I hope the House will give us that much, for I assure gentlemen that not one dollar of it will be expended except for the benefit of the whole people. We will this year coin in the San Francisco mint more than $50,000,000 if we are given the proper facilities for so doing. Unless we coin our bullion there we must ship it to Europe to be coined. The question with you, gentlemen of the House, is whether you will allow our American workmen to coin our own bullion, or compel us to ship it to Europe and have it coined in foreign countries.

I appeal to you to-night. I have examined this question carefully; I have spent days and days in the mint at San Francisco, and know how operations are conducted there. I would like have $300,000 appropriated for this purpose; but I believe we may get along with $250,000, and I hope you will give us that sum.

Mr. HOLMAN. I simply wish to call the attention of the Committee of the Whole to a single fact. The estimates for this branch of our public service for the next fiscal year are simply enormous. The amount appropriated last year was $386,700. The estimates for the coming fiscal year are $670,900; being an increase over the appropriations last year of $284,000 for this mint at San Francisco.

Now compare the operations of the mint at San Francisco with the amount appropriated for and the work done at Philadelphia. The amount appropriated for this purpose for the Philadelphia Mint is $259,000; and the number of pieces coined there——

Mr. PAGE. State the amount coined.

Mr. HOLMAN. The amount is not the important item, but the number of pieces coined. The number of pieces coined at Philadelphia was 26,394,958; at San Francisco the number of pieces coined was only 9,604,000. There were nearly three times as many pieces coined at Philadelphia as at San Francisco; while, as gentlemen know, the expense of coinage bears no relation to the amount in value of the coins, but to the number of pieces coined. Yet by this bill we are appropriating only $259,000 for the Mint at Philadelphia, while we appropriate $325,000 for the mint at San Francisco, while the mint at San Francisco coins only about one-third of the number of pieces that are coined at Philadelphia. There is no use in talking about there being any economy in the mint at San Francisco with these figures. It is well known to the country that the expense of living in San Francisco at this time——

Mr. PAGE. Will the gentleman state what is the difference in the actual cost of coining a piece of money in San Francisco and in Philadelphia?

Mr. PIPER. A twenty-dollar piece, for instance.

Mr. PAGE. The difference in cost of coining a piece of money in each place, no matter what its value may be.

Mr. HOLMAN. I cannot state the difference.

Mr. PAGE. I can state the difference: it costs less at San Francisco than it does at Philadelphia.

Mr. HOLMAN. The cost of living in San Francisco is not materially greater than it is in Philadelphia; yet by this bill we are virtually giving more than twice as much to San Francisco as we are giving to Philadelphia for coining an equal number of pieces.

Mr. PIPER. An equal number of pieces? That is a most remarkable statement. A nickel is a piece, is it not?

Mr. HOLMAN. Yes, it is.

Mr. PIPER. Does it cost as much to refine the bullion for a nickel piece as it does for a twenty-dollar gold piece?

Mr. HOLMAN. Ah, refining! My friend said that refining was not to be taken into the account.

Mr. PIPER. Refining bullion at Philadelphia is taken into the account.

Mr. HOLMAN. The fact is that, in addition to paying out the money received at the San Francisco mint, it is proposed to appropriate this large additional sum, making a much larger appropriation for this year than that made even last year, and vastly larger, as gentlemen will see at once, than has been made for similar work at Philadelphia.

Mr. LANE. Does it cost as much to coin and adjust a nickel as it does a twenty-dollar gold piece?

Mr. HOLMAN. I suppose not.

Mr. RANDALL. It costs nearly as much to coin a half dollar as to coin a twenty-dollar gold piece.

Mr. LUTTRELL. We are perfectly willing to give them all they want at Philadelphia.

The CHAIRMAN. Debate is exhausted on this amendment.

The question being taken on the amendment of Mr. LUTTRELL, it was not agreed to, there being—ayes 68, noes 95.

Mr. RANDALL. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. RANDALL having taken the chair as Speaker *pro tempore*, Mr. COX reported that the Committee of the Whole on the state of the Union had had under consideration the legislative, executive, and judicial appropriation bill, and had come to no resolution thereon.

Mr. BANNING. I move that the House adjourn.

The motion was agreed to; and accordingly (at ten o'clock p. m.) the House adjourned till Saturday next.

PETITIONS, ETC.

The following memorials, petitions, and other papers were presented at the Clerk's desk under the rule, and referred as stated:

By Mr BANNING: The petition of P. E. Holcomb, retired, that he receive the pay of a retired major United States Army, to the Committee on Military Affairs.

By Mr. BRADLEY: The petition of 9 citizens of Saginaw, Michigan, against the Post-Office Department distributing envelopes, newspaper-wrappers, and postal cards throughout the country at a price less than cost, to the detriment of the dealers in such articles, to the Committee on the Post-Office and Post-Roads.

By Mr. DURHAM: The petition of the officers and members of Mount Zion church, Madison County, Kentucky, for compensation for damage done to said church during the late war, to the Committee on War Claims.

By Mr. EDEN: The petition of Cephas Haney and 96 other citizens of Moultrie County, Illinois, for the repeal of the resumption act and the retirement of national-bank notes and the substitution of legal-tender notes interconvertible with a bond bearing a low rate of interest, to the Committee on Banking and Currency.

By Mr. FOSTER: The petition of William McWhood, for a pension, to the Committee on Invalid Pensions.

By Mr. KASSON: The petition of E. N. Curl, Tac Hussey, J. S. Carter, and others, against the Government printing stationery for sale, to the Committee on the Post-Office and Post-Roads.

By Mr. LAPHAM: The petition of citizens of Geneva, New York, for such legislation as will relieve them from injurious competition by the Government in the manufacture, transportation, and sale of stamped envelopes, newspaper-wrappers, and printed-request envelopes, to the same committee.

By Mr. MAGOON: The petition of P. B. Barlow and 38 citizens of La Fayette County, Wisconsin, that the present duty on flaxseed and linseed-oil be maintained, to the Committee of Ways and Means.

By Mr. McMAHON: The petition of S. S. Collins, B. F. Adams, and other citizens of Darke County, Ohio, for the repeal of the resumption law, against a tax on tea and coffee, against national banks, and in favor of legal-tender money, to the same committee.

By Mr. OLIVER: The petition of 400 citizens of Northwestern Iowa, that the law be so amended as to permit the McGregor and Missouri River Railroad to form a junction with the Sioux City and Saint Paul Railroad on or near the forty-fifth parallel of latitude, to the Committee on Railways and Canals.

By Mr. PAYNE: The petition of J. H. Merrill, for relief from a special tax in the city of Washington, District of Columbia, to the Committee for the District of Columbia.

By Mr. PLATT: The petition of citizens of Owego, New York, that Congress convey to the city of Brooklyn the strip of land and water between Washington avenue and the navy-yard, Brooklyn, New York, for the purpose of establishing a public market, to the Committee on Public Buildings and Grounds.

By Mr. RICE: The petition of William Silver, for a pension, to the Committee on Invalid Pensions.

By Mr. TEESE: The petition of manufacturers and dealers in distilled spirits in Newark, New Jersey, for the definition of the powers and duties of officers of the internal revenue and to further provide for the collection of the tax on distilled spirits, to the Committee of Ways and Means.

By Mr. THOMAS: The petition of 35 business men and firms of Baltimore, Maryland, against any change in the tariff at this time, to the Committee of Ways and Means.

By Mr. WALSH: Memorial of soldiers of the late war residing in Frostburgh, Maryland, and vicinity, in favor of the equalization of bounties, to the Committee on Military Affairs.

By Mr. WELLS, of Mississippi: The petition of Michael McGuire, for a rehearing of his case in the matter of his claim rejected by the southern claims commission, to the Committee on War Claims.

Also, the petition of Thomas L. Garrett, of similar import, to the same committee.

Also, the petition of Joseph A. Weatherly, of similar import, to the same committee.

By Mr. WILLIAMS, of Alabama: A paper relating to the establishment of a post-route from Rutledge, Crenshaw County, to Troy, Pike County, Alabama, by way of New Providence and Goshen Hill, to the Committee on the Post-Office and Post-Roads.

By Mr. WOODWORTH: The petition of James Cartwright and 115 other citizens of Youngstown, Ohio, that existing tariff laws may not be disturbed, to the Committee of Ways and Means.

HOUSE OF REPRESENTATIVES.

SATURDAY, *April* 15, 1876.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of Thursday last was read and approved.

JOURNAL CLERK OF THE HOUSE.

Mr. WHITE. I rise to a question of privilege in regard to the character of an officer of this House, and submit the preamble and resolution which I send to the desk.

The Clerk read as follows:

Whereas the following has appeared in the public press:

"WASHINGTON, D. C., *March* 15, 1876.

"SIR: A bill is now pending before Congress which proposes to pay every non-commissioned officer, musician, artificer, wagoner, private soldier, sailor, and marine (except substitutes) who faithfully served as such in the military service of the United States, and was honorably discharged from such service, the sum of eight and one-third dollars a month for all the time actually so served between April 12, 1861 and May 9, 1865. In case of death of the person before described, the bounty is to be paid to the widow, if alive and not remarried, but, if there is no widow or she has remarried, then to the children. In computing the bounty due any person there shall be deducted the amount of bounty heretofore received by said person from the United States. The bill declares that no agent or attorney shall receive a sum greater than $10 for the prosecution of any claim under the provisions of this act and that no soldier shall sell or transfer his claim.

"As the records under your control readily give you the names of soldiers in your town or ward, I invite you to accept the provisions of the inclosed agreement. Please sign both the inclosed blanks and return one to me, at the address in the agreement.

"If you do not wish to undertake this yourself, please pass the agreements and circular to some active man who will give the subject his earliest attention, and write me an answer.

"You will see the importance of attending to this matter the present week, for if the bill passes hundreds of agents will send circulars to parties granting the percentage which you may now obtain for yourself.

"CHARLES H. SMITH.

"Know all men by these presents, that we ——, of ——, in the county of —— and State of ——, of the first part, and Charles H. Smith, of Washington, in the District of Columbia, of the second part, agree as follows:

"Said party of the first part agrees to collect the discharges of all persons (except substitutes and commissioned officers) in the town or ward in which he resides, who served in the United States Army for any time during the war of the rebellion, to forward said discharges to said party of the second part, at the Imperial Hotel, Washington, District of Columbia, and to do all other acts within said town or ward, which may be made necessary by an act now pending before Congress for the equalization of bounties.

"Said party of the second part agrees that said party of the first part shall receive upon every successful application for bounty, furnished as aforesaid, 25 per cent.

"Witness our hands this ——day of ——, 1876.

"CHARLES H. SMITH."

Therefore, resolved, That the Committee on Military Affairs be, and are hereby, directed to inquire and report to this House whether any of its officers or clerks are acting as claim agents or are interested in procuring legislation, and if there is any further legislation needed to protect the House from having its officers or clerks acting as claim agents and becoming interested in legislation involving appropriations from the public Treasury.

Mr. WHITE. I move that this subject be referred to the committee indicated for investigation. The charge, if true, is a very serious one.

The SPEAKER. It is the duty of the Chair, in justice to Mr. Smith, to say that before the assembling of the House this day there was handed to the Speaker a communication from him on this subject, which he now directs the Clerk to read, omitting the circular embodied in the letter, which has already been read as part of the resolution of the gentleman from Kentucky, [Mr. WHITE.]